

# **AN ASSESSMENT OF CURRENT MANAGEMENT PRACTICES OF ADULT SEX OFFENDERS IN CALIFORNIA**

## **INITIAL REPORT**

**JANUARY 2008**

**SECOND EDITION**



The Great Seal

# **THE CALIFORNIA SEX OFFENDER MANAGEMENT BOARD'S REPORT TO THE LEGISLATURE AND GOVERNOR'S OFFICE JANUARY 2008**

**AN ASSESSMENT OF CURRENT MANAGEMENT PRACTICES OF ADULT SEX  
OFFENDERS IN CALIFORNIA  
BY**

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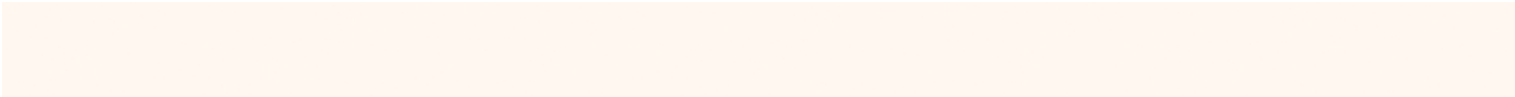
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# EXECUTIVE SUMMARY





## PREFACE

Sexual assault continues to bring tremendous and long-lasting suffering into the lives of its victims, and the communities in which they live.

**The mandate of the California Sex Offender Management Board (CASOMB) is to play a key role in reducing sexual victimization in our state, particularly that perpetrated by individuals who have already been identified as sexual offenders. Consequently, every effort of the CASOMB must be informed by a clear perspective on the experiences of victims – viewed individually as well as collectively.**


California is an exceptional state. Its size, diversity, distribution of resources and variations in practices, make any assessment of public safety strategies a complex and expansive challenge. The legislation that created the CASOMB in statute acknowledged this reality by requiring the Board to focus the first phase of our work, and thus this report, on current practice and existing research.

When passing and signing AB 1015 (Chu and Spitzer) in 2006, California’s legislature and Governor wisely recognized that in order to truly, and effectively, improve sex offender accountability and management strategies it was necessary to understand the current state of practice. The safety of the public, victims and those who could be potentially victimized depends on the deployment of public safety strategies that are effective and achievable.

By studying evidence-based sex offender management practices and gathering information with regard to what California is currently doing to either conform to evidence-based practice or to diverge from such practice, the CASOMB is taking a first major step toward its mandated goal: “...*address any issues, concerns, and problems related to the community management of adult sex offenders...to achieve safer communities by reducing victimization.*”

The CASOMB, in preparing this Report, has been primarily interested in assembling the “currently available” information about sex offender management in California. The reader of this Report will, it can be assumed, share with its authors an awareness that there is much information that is desirable but not provided. It is not provided because it is not readily available at a statewide level. Noteworthy “gaps” in the ready availability of information needed to develop recommendations for improved policies and practices are pointed out throughout the document.

The strengths, gaps, research recommendations and policy analysis included in this document should be considered an initial assessment of California’s practice – one of the first of its kind ever produced in this state. It should be noted that, as most readers of this Report are already aware, the reality of having so many jurisdictions, laws, systems, agencies and perspectives directly involved in the management of California’s sex offenders results in a very complex web of policies and practices that defy ready



simplification. It is precisely this complexity – at least in part – that has created the need for instituting a Sex Offender Management Board as a locus of cohesive information and integrated expertise.

This report represents the CASOMB’s first step towards the Board’s vision to **decrease sexual victimization and increase community safety**.

## **BACKGROUND**

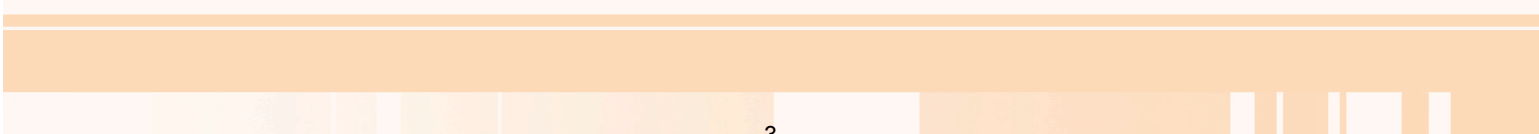
The CASOMB is a state board functioning under California Penal Code 9000 and composed of seventeen members, fifteen of whom had been appointed at the time of this writing. Each member represents a constituency with a central role in the promotion of public safety and the management of California’s sex offenders. Each member brings a specific subject-matter expertise and experience that informs the agenda and work of the CASOMB.

Since the first CASOMB meeting in July of 2007, members have worked with board staff to produce this assessment of California’s sex offender management practices. In accord with its mandate, however, the Board’s intent is not to rely solely on Member’s opinions but to develop broad, solid, information-based expertise with respect to best practices and effective policies.

To that end, in the last seven months, the CASOMB has conducted the following activities:

- The Board took testimony from state policy makers, public safety officials and content experts at most of its monthly scheduled public meetings.
- Board members solicited input, attended hearings, and polled constituents related to specific sex offender management practices.
- The CASOMB held three public hearings in San Francisco, Bakersfield, and San Bernardino to solicit feedback from community members, local elected officials, victim service providers, law enforcement agencies, and supervision agencies such as probation and parole.
- Board members worked in collaboration with the Criminal Justice Division (CJD) at Sacramento State (CSUS) to survey existing research and policy documents that would help define and establish which practices could be considered promising and evidence-based.

It is additionally important to note that on November 7, 2006, California voters overwhelmingly approved Proposition 83, titled “The Sexual Predator Punishment and Control Act: Jessica’s Law” which made significant and sweeping changes to the sentencing, supervision and permitted residential locations of offenders convicted of



specified crimes. Proposition 83 also made substantial changes related to the screening and treatment of Sexually Violent Predators.

The majority of the elements of Proposition 83, particularly those related to sentencing, have been codified and implemented without difficulty since its passage. What remains, however, are a few significant sections of the initiative which pose implementation and enforcement challenges that will likely require clarification from the courts or thorough legislation. The issues, questions and concerns raised to the CASOMB during its information collection process related to Proposition 83 have been identified in most sections of this report

It is the hope of the CASOMB that by identifying these areas of challenge policymakers will have a framework to begin to address these issues and promote solutions.

## **OVERVIEW OF THE SECTIONS OF THE REPORT**

There are many domains of sex offender management and, for effective functioning, each must interface productively with some or all of the other components of the total system. Although, for purposes of clarity and ease of understanding, each of the following sections is addressed somewhat separately, important interactions with other elements of the overall system will be regularly noted.

SECTION One - Prevalence of Sexual Assault and Services for Victims

SECTION Two -Numbers and Distribution of Offenders

SECTION Three - Sex Offender Recidivism

SECTION Four - Investigation and Prosecution

SECTION Five - Housing

SECTION Six - Supervision

SECTION Seven - Treatment

SECTION Eight - Registration, Notification and Post-Superversion Management

### **Section 1: PREVALENCE OF SEXUAL ASSAULT AND SERVICES FOR VICTIMS**

#### **Data at a Glance:**

- One of six U.S. women and one of thirty-three U.S. men have been victims of a completed or attempted sexual assault.
- Nine out of ten sexual assault victimizations involved a single offender with whom the victim had a prior relationship as a family member, intimate, or acquaintance.
- 67% of reported crimes to law enforcement were related to assaults against juveniles.

- 77% percent of sexual assaults with juvenile victims occurred in a residence compared with 55% of adult victimizations.
- It is estimated that persons with mental and/or developmental disabilities have 4 to 10 times higher risk of being crime victims.

In the studies of sexual assault to date, the effects on the victims have been described as profound. When the sexual assault occurs during childhood, the consequences on both the physical and mental health of the victim can be lifelong. Victims are more likely than non-victims to experience a major depressive episode. Victims are more likely than non-victims to have contemplated suicide. The significance and scope of sexual assault is a major criminal justice issue with an impact on wider society.

In light of the potentially deep and lasting impacts of a sexual assault, supportive services and resources for victims are essential. Victim service providers, such as rape crisis centers and victim witness programs, work directly with crime victims to provide resources and supportive services. Victim service providers can assist with the development of offender supervision practices, community education plans, and other victim-responsive practices that can improve the effectiveness of public safety and management practices.

### **Summary of California's Strengths in Victim Assistance**

- Statutorily mandated training for victim advocates and rape crisis counselors.
- Statutorily defined services for California Victim/Witness Assistance Programs and Rape Crisis Centers.
- Team approaches through Vertical Prosecution programs that include a victim advocate.
- Collaborative team approaches through SARTs, MDICs, FJC's and SAFE Task Forces.
- California has the nation's largest victim compensation program.

### **Summary of California's Gaps in Victim Assistance**

- Lack of a statewide strategic plan for victim assistance resulting in inadequate planning for victim services and fragmented funding.
- Lack of funding for a victim advocate as part of Vertical Prosecution team.
- Lack of coordination among government agencies resulting in conflicting and duplicative policies.



- Uncertainty in funding from year-to-year.
- Lack of communication with and among service providers on significant policy issues.

### **Recommendations for Future Research**

- The low compensation of victims. Only 20% of crime victims have been compensated through the state compensation program. Why are so few victims being compensated?
- The impact of the increased number of registrants declaring themselves as transient on the effectiveness of the Megan's Law. As discussed in the Registration and Notification section of this report, the number of registrants who had declared themselves as transient has increased significantly. How has this impacted the usefulness of the Megan's Law website?
- Local authorities' compliance with victim notification. Though state statute provides for numerous notification of a victim of their rights, are local agencies complying with this requirement?
- Effectiveness of community education. How informed is the community about sex offenders and sex crimes? Have they utilized the community efforts of the state and local agencies? Are local citizen groups involved in educating the community? Are agencies providing the notifications required by statute?

## **Section 2: NUMBERS AND DISTRIBUTION OF OFFENDERS**

### **Data at a Glance:**

#### **PC290**

- 67,710 registered sex offenders living in California communities (there are an additional 23,469 sex offenders who would be required to register but do not currently reside in the state).
- In 2006, approximately 2000 sex offenders registered as transient. In January 2008, 2,879 sex offenders registered as transient.

### **In Custody (Criminal)**

- There are currently 22,474 sex offenders currently in custody (in state prison).
- The number of registered sex offenders in California's 145 jails fluctuates from day to day and is unknown at this time.

### **Civil Commitment**

- Coalinga State Hospital currently has 655 men under commitment or pre-commitment as a Sexually Violent Predator (SVP) (including WIC 6604s and WIC 6602s).
- Atascadero State Hospital has a total of 63 men committed as SVPs.
- 25 sexual offenders are under a dual commitment of Mentally Disordered Offender (MDO) and SVP.
- Approximately 20-30% of those admitted under WIC 6604 and/or WIC 6602 are participating in the Sexual Offender Commitment Program (SOCP) at each state hospital.

### **Supervision**

- There are 10,425 registered sex offenders on state parole with the Division of Adult Parole Operations.
- Approximately 70 - 80% of all sex offenders are living in the community under no formal supervision.
- There are approximately 3,011 designated as High Risk Sex Offenders (HRSOs) currently on parole.
- There are approximately 2,337 HRSOs on active GPS monitoring.
- There are 1,002 non-HRSO PC 290 registrant sex offender parolees on passive GPS monitoring as of January 21, 2008.
- With 50 of 58 counties reporting numbers of sex offenders, there are 6,738 sex offenders under county probation.
- There are 243 registered sex offenders on U.S. Federal Probation.

### **Proposition 83**

- Of registered sex offenders in the community on parole, CDCR has determined 2,393 were not subject to the provisions of Jessica's Law, and 4,345 are subject to the provisions of Jessica's Law.
- 4,332 are compliant with Jessica's Law requirements, and 13 are non-compliant with Jessica's Law requirements (due to extenuating circumstances of a medical or psychiatric nature).

### **Summary of Strengths related to Sex Offender Number and Distribution in California**

- The California Department of Justice (DOJ), responsible for maintaining the information for sex offender registration and the Megan’s Law website, has working systems in place and has plans to update and improve those systems over the next few years.
- The California Department of Corrections and Rehabilitation (CDCR) gathers and maintains key information on the sex offenders under its authority and is able to generate various types of reports based upon this information.
- CDCR appears to be reinvigorating its research department and may be expected to increase its ability to provide helpful analyses of sex offender information.
- At various times, valuable individual reports on issues related to the number and distribution of sex offenders has been generated by the California Research Bureau, the Legislative Analyst’s Office, the University of California at Irvine and others.

### **Summary of Gaps related to Sex Offender Number and Distribution in California**

- No entity in California – whether state agency, academic institution or other – has assumed or been appointed to provide leadership responsibility for conducting key research on topics related to the management of the state’s sex offenders. California has consistently been a “consumer” of policy research and other research materials produced elsewhere, frequently by much smaller states, agencies, and/or foreign countries.
- CDCR does not have a system of electronic record keeping (case files) for those under its authority and so is unable to provide much flexibility in assembling new sets of data or retrieving information from older records.
- Data collection regarding sex offenders on county probation varies considerably from county to county. Consistency is needed to allow the information to be gathered and analyzed at a statewide level. Some counties have been unable to provide data needed even for the basic overview provided in this section of the Report.
- The “metrics” used to classify sex offenders, sex offenses, recidivism and similar important dimensions are not consistent across systems, making it hard to reach and state clear conclusions.

### **Recommendations for Future Research**

- The materials prepared for this chapter should serve as a starting point for an evolving process of:
  1. reconfirming the accuracy of all data on an ongoing basis
  2. determining methods of filling in missing data and doing so
  3. finding more informative and user-friendly ways of presenting the data
  4. developing improved creative graphic representations of the data
  5. applying statistical analysis methods to the data to improve usefulness.
- 6. identifying areas where more information is needed.
- 7. tailoring the growing body of information to respond to the questions of CASOMB and of others – including policy makers.


Important questions about costs and cost effectiveness of California policies and practices cannot be asked and answered without first building a solid descriptive information base of data about how the various systems related to sex offender management actually function and dynamically interact in the real world. The needed information base needs to be built and future use in determining cost effectiveness should be kept in mind at every step.

### **Section 3: SEX OFFENDER RECIDIVISM**

#### **Data at a Glance:**

- 3.55% of sex offenders on parole with CDCR had committed new sex offenses within their three-year parole period.
- A ten-year follow-up study of 879 sex offenders in the state of Ohio reported that when using sex offense conviction as the outcome measurement, of 34 % of sex offenders who have re-offended, only 8 % were re-committed for a new sex crime, plus 3 % for a technical violation judged to be related to a potential new sex crime, while the other 22% re-offended for non-sexual offenses.

Solid information about the recidivism of sex offenders is one of the key building blocks for good policy and effective practice in sex offender management. If it were not for the concern that an identified sex offender may offend again in the future and create another victim, the questions about how to best manage sex offenders living in California communities would not be of such intense interest. Knowing how likely it is that an



individual sex offender or a certain type of sex offender might re-offend can drive many decisions. Similarly, knowing what interventions actually reduce the chances that a sex offender will re-offend is also extremely important.

Existing data indicates that the majority of sex offenders do not re-offend sexually over time (Harris & Hanson, 2004). Additionally, research studies over the past two decades have consistently indicated that recidivism rates for sex offenders are, in reality, lower than the re-offense rates for most other types of offenders. In a longitudinal study that followed 4,742 known sex offenders over a period of 15 years, 24% were charged with or convicted of, a new sexual offense (Harris & Hanson, 2004). The U.S. Department of Justice found that 5% of 9,691 sex offenders released from prisons in 1994 were re-arrested for new sex crimes within three years. Recent research data from California Department of Corrections and Rehabilitation indicate that fewer than 4% of the convicted sex offenders released to parole in 2003 were returned for a new sex offense over the course of a three year period of living in the community under parole supervision (CDCR Research, 2007).

#### **Summary of Strengths with Respect to Tracking Sex Offender Recidivism in California**

- California's Department of Justice (DOJ) and CDCR maintain comprehensive databases on those sex offenders in the State of California who are under their respective jurisdictions. The DOJ maintains information on all PC290 registered sex offenders while CDCR keeps records on prisoners and parolees. The institutional mechanisms and technical resources exist to effectively collect and further analyze information related to the state's registered sex offenders.

#### **Summary of Gaps with Respect to Tracking Sex Offender Recidivism in California**

- There is no broadly researched and replicated body of data about the recidivism of California sex offenders that would provide baseline measures to guide policy and evaluate the success of any new efforts to reduce recidivism.
- No information is available at this time regarding sexual recidivism for sex offenders on probation in California.
- Policy makers have insufficient resources for obtaining reliable information about recidivism nor do they have ready access to expert assistance in interpreting the complex recidivism data available from multiple sources.

- The operational definition of “sex offender recidivism” used in any future California recidivism studies needs to be standardized to improve the accuracy and comparability of the data.
- Little is known about the extent to which recidivism rates climb after the period of formal supervision and control under the authority of the criminal justice system (parole and probation) ends and sex offenders are simply living in the community as “free” citizens. Research about post-supervision recidivism should be undertaken.

### **Recommendations for Future Research**

- Researchers can work with the Department of Research at CDCR to more fully establish a research protocol designed to define and measure the recidivism of sex offender parolees.
- Parallel efforts should be undertaken to establish systems that can define and measure sex offender recidivism among probationers in the state of California who have been convicted of a crime that is sexual in nature.
- Whenever new policies and management methods for California sex offenders are implemented, implementation needs to include a research component to determine whether the approach actually lowers recidivism rates.

## **Section 4: INVESTIGATION AND PROSECUTION**

Under California law, it is law enforcement who has the primary responsibility for the investigation of sexual assault cases. Sexual assault cases are reported to police in a number of ways, including but not limited to, calls for help through 911 or general number, face-to-face report at the department, hospital or clinic report, and report by a mandated reporter of sexual assault. It is the responsibility of law enforcement to both respond to and investigate reports. Law enforcement is empowered to make arrests of those individuals against whom there is a reasonable suspicion of the commission of a sexual assault crime.

It is the role of the Office of the District Attorney in each county to determine which offenders will be prosecuted and for what charges. How a sexual assault case is charged plays a dispositive role in the success of the prosecution of the case for the maximum possible sentence. If the charging decision fails to encompass the most serious of the charges (under-charging), protection for the community may suffer by prematurely allowing the alleged perpetrator back into the community. By contrast, the decision to file the most serious charges possible without adequate investigation (over-charging) may negatively impact the criminal justice system by diverting prosecution resource from

other cases, by putting the integrity of the District Attorney's Office in question, and by prolonging cases that might otherwise be resolved at an earlier stage. Such decisions also have the potential for negative effects on victims.

### **Summary of California's Strengths in Investigation and Prosecution of Sex Offenders**

#### **INVESTIGATION:**

- There is statutorily mandated training for Sexual Assault Investigators.
- California has Specialized Units for Sexual Assault Investigators.
- There is a Collaborative Team approaches through SARTs, MDICs, FJCs and SAFE Task Forces who work more closely with Prosecution from the inception of the Investigation.
- California has a statutory mandate for convicted sex offenders to submit DNA.
- California has created and utilizes a DNA database, including use of CODIS and the CHOP program.
- There is support of Specialty Law Enforcement Professional Organizations (CSAIA, local Sexual Assault Investigators Associations).

#### **PROSECUTION:**

- California subscribes to the use of Vertical Prosecution.
- There is Consolidated and Standardized Training.
- California has a Sexual Assault Mentor District Attorney Program (SAM DA) through CDAA.
- California has a statutorily mandated Victims Bill of Rights in Penal Code Section 679 et seq.

### **Summary of California's Gaps in Investigation and Supervision of Sex Offenders**

#### **INVESTIGATION and PROSECUTION:**

- Lack of Funding for Vertical Prosecution and Specialized Units.
- Lack of Funding for Training for Prosecutors.
- Specialized Units are not available in all counties.
- There is a lack of training for all prosecutors who handle sexual assault cases.
- Only a small number of communities that have developed collaborative teams, such as SARTs, MDICs, FJCs and SAFE Task Forces.



## Recommendations for Future Research

- There needs to be a comparison of cases handled by Specialized Units in Law Enforcement, using all available tools, such as MDIC, SART, FJC against those not utilizing those services.
- There needs to be a comparison of cases vertically prosecuted, including charges filed, time case pending, tools utilized by investigation and prosecutors and sentence against those not handled in the same manner.
- Victim surveys are necessary to assess the impact of the investigation techniques and/or prosecution management.
- Development of outcome studies on the effectiveness of various investigation and prosecution tools as well as methods of investigation and prosecution are needed.
- Research needs to be completed which will allow us to understand the impact of newly created laws on sex offenders and/or the community, particularly to determine if new laws provide a deterrence for future criminal, sexual behavior.

## Section 5: SUPERVISION

### Data at a Glance:

- In 2006, 11,739 “tips” were reported through the public reporting feature of the California Megan’s Law website. In 2007, DOJ received 9,902 public referrals.
- In 2007, nine California counties had formally funded SAFE Teams.
- DAPO has 51 specialized caseloads for High Risk Sex Offenders (HRSOs), mostly in larger urban areas.
- Current caseloads for CDCR HRSOs on active GPS tracking devices are 20:1.
- Current caseloads for non-HRSOs on passive GPS tracking systems are 40:1.
- Caseloads for local probation vary widely, and are not collected at the state level.

Supervising sex offenders who have been released to the community is a task that must focus primarily on public safety. The main purposes of supervision include successful re-entry into the community, successful re-assimilation into the community, and helping in the groundwork and preparation for the parolee or probationer’s long term success as a viable, productive member of the community. All of these areas in combination reduce the likelihood of re-offense and help to alleviate public fear of sex offenders released back into the communities.

Most sex offenders living in California communities are not under formal supervision. Approximately 70 - 80% of registered sex offenders are not under the authority or supervision of either parole or probation. For the remaining 25%, formal supervision is comprised of three major supervising entities, including CDCR's Division of Adult Parole Operations (DAPO) at the state level, County Probation Department for felony convictions, and some registered sex offenders in the state of California are under United States Probation for federal convictions.

### **Summary of California's Strengths in Supervision of Sex Offenders**

- Strides are being made in the Division of Adult Parole Operations to adhere to the Containment Model. Per Penal Code change, a widely recognized risk assessment instrument classifies high risk from lower risk offenders.
- By April 2008, all HRSO parolees will be wearing active GPS tracking devices. The training program for parole agents who supervise sex offenders wearing active or passive devices appears to be thorough and takes place in three phases. Updated training is made available as changes are made to hardware or software. Special efforts have been taken by CDCR to review cases that qualify for SVP screening in a timely manner despite the increased number of offenders who now qualify for review.
- There appears to be regular communication between treatment providers and parole agents, when providers are available.
- Some counties, in particular, San Diego, Orange and San Francisco, adhere to the Containment Model of supervision.

### **Summary of California's Gaps in Supervision of Sex Offenders**

- The Division of Adult Parole Operations does not utilize polygraph examiners, which does not allow full utilization of the Containment Model. Current bids in progress have polygraph exams (one or two if approved) as part of potential treatment provider contracts.
- Training in utilization of GPS and enforcement of residency restrictions has replaced specialized sex offender management training.
- Information on each county's practices is not available at this time. Many counties do not have specialized sex offender caseloads, many specialized case loads are too large, sex offender training must be sought from outside, and most counties do not utilize the polygraph exam as part of the containment model.
- Each county probation department appears to have different resources and methods for supervising sex offenders. One uniform model throughout the state would be the most evidence-based method of ensuring that the containment model was practiced in a consistent manner.

## Recommendations for Future Research

- What is needed at this time is information regarding practices and resources regarding use of the containment model sent to each parole unit and each of the 58 California counties. Questions could be devised regarding what is being done, what is not being done, and what are seen as impediments to practicing the containment model in each county and each parole unit. With more complete information, recommendations as to how to help each location more approximate the containment model can be generated.
- An assessment of supervision by local law enforcement agencies after the formal period of supervision has passed, including whether registration address compliance checks are conducted, whether community notification is utilized and to what degree registration information is verified.


## Section 6: HOUSING

### Data at a Glance:

- As of December 9, 2007, 3,884 parolees subject to Jessica's Law were under the supervision of a parole agent in California communities.
- 3,166 of this population reside in compliant housing, while 718 have declared themselves transient. This is a four-fold increase from one year ago.
- Of the entire population of 3,893, 13 offenders are in non-compliant housing due to a medical or psychiatric condition which requires placement in a facility within the restricted zone mandated by Jessica's Law.
- There is not a statewide agency or entity charged with gathering comprehensive statistics related to the probation or post-supervision population from all 58 counties.
- Supportive housing which has been developed in other states, has shown a decrease in re-incarceration by as much as 50%.

Identifying safe and appropriate housing for convicted sex offenders has been a long-standing community challenge. Community members are generally reluctant to live next door to an offender or, often even in the same neighborhood. As a result, housing options are usually more limited for sex offenders than any other type of offender.

Recent changes in state and federal statutes have rendered housing options even more limited. Many sex offenders have traditionally utilized the home of their families as



transitional housing until they were able to secure a more independent living option. Now, many of these homes are located in areas that are subject to residency restrictions, and are no longer an option. More frequently than ever before in California, recently released sex offenders are registering as transient.

### **Summary of Strengths related to Housing of Sex Offenders in California**

- Proposition 83 housing restrictions are enforced by the CDCR to the full extent provided by statute.
- Public support for residency restrictions is strong.
- Most of the affected parolees have found compliant housing.
- Most of the affected parolees who absconded in order to avoid the residency restriction have been arrested.

### **Summary of Gaps related to Housing of Sex Offenders in California**

- The number of offenders that are Jessica's Law (Proposition 83)-compliant in the community equates to approximately half of the Proposition 83 population released since implementation.
- Offenders registering as "transient" may have other options than being homeless. The offender may stay sporadically in an exclusion zone while on transient status, performing functions normally associated with a residence. The law limits "where they live", not "where they go."
- The number of affected sex offenders statewide, and parolees in particular who declared themselves as transient since the implementation of Jessica's Law has increased dramatically (See Chart 6-3). As Charts 6-3 and 6-4 illustrate, the number of declared transients has increased four-fold for parolees.
- There is a lack of transitional housing for parolees.
- The effect of residency restrictions on probationers is unknown, due to lack of implementation and no central data collection process.
- Jessica's Law does not identify who is responsible for enforcing residency restrictions after the sex offender is released from probation or parole, and provides no funding for it.
- Proposition 83 does not impose a penalty for violators of residency restrictions who have been released from probation or parole.

## Recommendations for Future Research

- **The impact of residency restrictions on probationers.** Currently, there is CDCR data regarding parolees. However, the number of affected probationers who are not in compliance with residency restrictions is not known. Similarly, the number of affected probationers who have declared themselves as transient, and the number of affected probationers who have absconded from probation supervision is unknown.

## Section 7: TREATMENT

### Data at a Glance:

- A state survey conducted in the year 2000 found that 39 of the 50 states provided sex offender treatment within their prisons. **California is one of the few that does not provide treatment services.**
- 31 of the 50 counties responding to the California probation survey, reported having sex offender treatment services available in their county.

Sex offender treatment has historically utilized different methods to rehabilitate this population, with victim safety and reduction of recidivism being main treatment goals. Sex offender treatment is an important part of the containment model of sex offender management. Collaboration between treatment providers, parole agents / probation officers, clinical polygraph examiners, and victim advocates are key elements necessary for the successful re-entry and continued supervision of sex offenders.

Sex offender treatment which once attempted to treat sex offenders with traditional models of treatment has evolved to a more specialized approach. A cognitive behavioral approach which critically examines deviant thoughts and behaviors has replaced psychotherapy as the base of treatment. In many cases, community safety and/or the safety of potential victims, as opposed to offender comfort, is the focus of sex offender treatment. The other tools of supervision are external controls, focusing on the sex offender's behavior. Treatment can assist the sex offender in the change process so that after he is off of supervision he can monitor his own behavior through the development of internal controls. Cognitive behavioral treatment has been found to reduce recidivism by as much as 40%.

### **Summary of Strengths of Sex Offender Treatment in California**

- 22 of 50 California counties indicated that they had enough treatment providers to treat sex offenders on probation.
- San Diego, Orange, and San Francisco counties have CSOM funded and based Containment Models and have guidelines for treatment providers. Shasta County has a promising model without the benefit of a grant.
- CDCR is currently in the bid process for sex offender treatment services for up to 2,700 parolees deemed high risk sex offenders.
- The SOCP program through the Department of Mental Health for civilly committed Sexually Violent Predators is based on evidence-based practices and is the only publicly funded treatment services for adults in State institutions.

### **Summary of Gaps in Sex Offender Treatment in California**

- No sex offender treatment is available for the over 23,000 sex offenders incarcerated in CDCR institutions. California is one of few states that does not provide any sex offender treatment in prison.
- There are currently no guidelines in the state of California for treatment providers who work with sex offenders other than to be licensed by the state of California or to be supervised by a licensed clinician. Guidelines for providers who wish to treat sex offenders are needed in California.
- The state hospitals provide the Sex Offender Commitment Program to all sex offenders but only 20-30% participate in this treatment program. Many more offenders participate in general treatment groups and vocational offerings.
- Most HRSOs on parole in California are not provided offender- specific treatment consistent with the guidelines discussed in this report above. Some parole sex offenders receive a short term relapse prevention class taught by their parole agent. Parole Outpatient Clinic staff are not systematically trained to treat sexual offenders nor do they have the time to do so using the guidelines discussed above.
- Many counties either do not have known treatment providers who are members of the professional associations that focus on sex offender treatment and management, or do not have enough treatment providers to treat those who are on probation.

- There is no data evaluating the effectiveness of most treatment providers or sex offender programs currently providing treatment to parolees and probationers in the state of California. Therefore, there is no way to measure whether the programs that are currently utilized in the state of California are in accordance with evidence-based sex offender treatment programming. It is unknown how many sex offenders are receiving sex offender treatment while on probation nor how many complete such treatment. Recidivism data has not been collected in any consistent way across counties.

### **Recommendations for Future Research**

- At the current time, the quality of treatment being provided by various treatment providers is unknown. A survey of all treatment providers who state they provide treatment to sex offenders could be informative. Information regarding level of education and training of each staff member, ratio of staff to client, number of clients treated, length of program, and specific information regarding programming would be one part of the survey. If possible, program evaluation with recidivism, dropout and completion rates would be very important to gather on all programs available in the state.

## **Section 8: REGISTRATION, NOTIFICATION AND POST-SUPERVISION MANAGEMENT OF SEX OFFENDERS**

Although often confused, sex offender registration and community notification are two very distinct concepts. Registration is the process by which a sex offender provides specified information about him or herself to a local law enforcement agency. The purpose of registration is to give law enforcement agencies a means to track sex offenders' whereabouts when pertinent to an investigation of a new sex offense. Community notification, sometimes called "Megan's Law" because of the law that mandates this notification, is the process by which law enforcement agencies provide information to the public about specified sex offenders. The purpose of community notification is to give the public information about sex offenders so that they may protect themselves and their families.



### **Summary of Strengths in registration and notification:**


- Public and law enforcement support for sex offender registration and notification is strong.
- Most offenders are in compliance with registration requirements.
- Efforts to enforce registration requirements have increased.

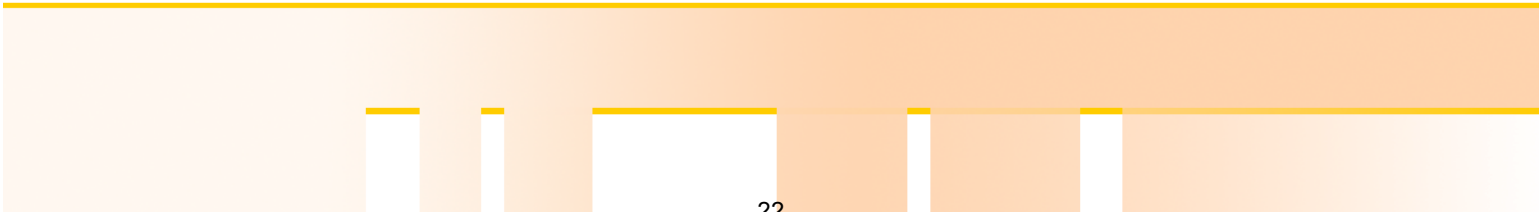
### **Summary of Gaps in registration and notification:**

- There is no law requiring law enforcement agencies to verify the offender's registered address, either by utilizing field compliance and/or mail-in verifications on an ongoing basis. Law enforcement agencies that currently have registration verification and enforcement teams are generally unfunded and are pulled together from existing, limited resources.
- There is a large percentage (18%) of sex offenders not complying with registration requirements. However, law enforcement has made great strides in locating out-of-compliance offenders, and it is likely that most offenders in this group were convicted many years ago and have not come to the attention of law enforcement since their convictions.
- There is no required timeline for entry of registration data by local law enforcement into the state's sex offender registration database.
- Under current law, neither active nor passive notification must be tied to an individual assessed risk level of the offender. Current California law ties passive notification only to the offense committed; a law enforcement agency's decision whether to do active notification may, but is not required to, consider the offender's risk assessment score.

### **Recommendations for Future Research**

- Law enforcement agency active notification policies and procedures are unknown. To develop a plan incorporating best practices with respect to such policies and procedures, and determine the best ways in which they can be provided to all law enforcement entities that are authorized by law to do active notifications, a survey of law enforcement agencies is necessary.
- The impact on victims of sex crimes from community notification efforts (passive and active) is unknown. To develop recommendations for ways in which the needs of sex crimes victims can be balanced with the public's right to know about dangerous offenders in their communities, a study of sex crime victims is necessary.

- 
- The effectiveness of efforts to educate the community regarding the realities versus the myths about sex offenders and sex crimes is unknown. How informed is the community about sex offenders and sex crimes? Have they utilized the community efforts of the state and local agencies? Are local citizen groups involved in educating the community?



## INTRODUCTION

## INTRODUCTION

Sexual victimization continues to bring tremendous suffering into the lives of California's children, women and men. Developing policies and practices that have the greatest likelihood of decreasing these crimes that are so damaging to their victims is a goal to which all would subscribe. What those specific policies and practices should be is not always so clear.

Identifying and successfully implementing the most effective practices for the management of individuals known to have committed a previous sexual offense and are now living in California communities has become a challenge of increasing concern for state and local elected officials, government administrators and front line staff, the media and the general public.

At an increasing rate, policies intended to regulate and modify the behavior of such persons have been introduced and adopted in California, and in other states, at a number of levels. The California Legislature and the Governor created the California Sex Offender Management Board (CASOMB) in October 2006, in order to assist with the efforts to craft and implement policies which will increase the safety of the state's communities with respect to sexual assault.


As one of the first steps in meeting the requirements established for it, the Board has prepared the Report contained in these pages. Some understanding of the history and context within which this Report was prepared is needed in order to appreciate what the Report is intended to accomplish and what the limits are on its scope and purpose.

Many leaders, agencies and individuals might, understandably, desire and expect a Report which will resolve all or many of the difficulties associated with the policy and practice of sex offender management in California. An understanding of the origins of the Sex Offender Management Board and of this initial Report may help to temper any unrealistic expectations.

The TIMETABLE as well as the STRUCTURE AND CONTENTS for the following Report was established through the enabling legislation for the California Sex Offender Management Board (CASOMB). Each of these two dimensions deserves some comment.

## TIMETABLE

The initial legislation (AB 632) provided a timetable of twenty-four months from the inception of the Board until the initial Report was to be submitted. By the time the new enabling legislation (AB 1015) had finally been passed and signed, Board appointments had been made and the Board actually began to meet in June of 2007, the time period available before the Report was due had been shortened to six months.



What had also not been anticipated at the time the initial legislation was drafted were a number of recent important policy events related to California's management of the state's sex offenders. These events have included:

- The two sessions of the Governor's High Risk Sex Offender Task Force which resulted in a number of policy recommendations,
- The year-long effort, as a result of a grant obtained through the initiative of the California Department of Corrections and Rehabilitation (CDCR) from the U.S. Department of Justice administered through the Center for Sex Offender Management (CSOM) which resulted in an extensive Report and numerous recommendations related to the many dimensions of sex offender management (Available at [www.CASOMB.org](http://www.CASOMB.org) ),
- The passage of Proposition 83, Jessica's Law, resulting in a number of substantial changes to the way sex offenders are managed in California, particularly with respect to residency restrictions, the use of Global Positioning Tracking Systems (GPS) for sex offenders and broadening of the Civil Commitment process to include many more offenders,
- The passage of SB 1128 and SB 1178 which led, among other things, to the creation of a Committee to oversee the selection and implementation of a State Authorized Risk Assessment Tool for Sex Offenders (SARATSO),
- The "Housing Summit" convened by Governor Schwarzenegger to open discussion between state and local officials with respect to the problems and potential solutions in housing sex offenders appropriately, and
- The passage of the Federal "Adam Walsh Act" which, should it be implemented in California, will require many changes in the ways the state manages sex offenders.

During the six months between its first meeting on June 25, 2007, and the issuance of this Report in January 2008, the Board has met monthly as a full Board, has developed a leadership and internal committee structure as well as internal protocols and systems, has generated a Mission and Vision statement, has hired and given direction to staff, has held public hearings, has provided a position letter on GPS issues in response to a request for direction from CDCR Secretary Tilton, has developed a research partnership with the Division of Criminal Justice at California State University at Sacramento, has heard testimony from a legislator, law enforcement leaders, and members of the public.

As a full Board and through its committee structure, with the assistance of a number of subject matter experts serving on those committees, the members of CASOMB - all of whom serve as volunteer uncompensated participants and who have many other commitments in their professional lives - have worked intensively to meet the obligation with respect to the present report. It should be noted that even at this point only 15 of the Board's full compliment of 17 members have been appointed and have been available to contribute their efforts to the preparation of this Report.

## STRUCTURE AND CONTENTS

The direction and content areas of this Report have been determined by the language of the Board's enabling legislation, Chaptered in Penal Code Section 9002. The relevant section of the law is provided below.

*California Penal Code 9002. (a) The **board** shall address any issues, concerns, and problems related to the community **management** of adult **sex** offenders. The main objective of the **board**, which shall be used to guide the **board** in prioritizing resources and use of time, is to achieve safer communities by reducing victimization. To that end, the **board** shall do both of the following:*

*(1) Conduct a thorough assessment of current **management** practices for adult **sex** offenders, primarily those under direct criminal justice or other supervision, residing in California communities. A report on the findings of this assessment shall be submitted to the Legislature and the Governor by January 1, 2008. Areas to be reviewed in this assessment shall include, but not be limited to, the following:*


- (A) The numbers and distribution of offenders.*
- (B) Supervision practices.*
- (C) Treatment availability and quality.*
- (D) Issues related to housing.*
- (E) Recidivism patterns.*
- (F) Response to the safety concerns of past and potential future victims.*
- (G) Cost and cost-effectiveness of various approaches.*
- (H) Any significant shortcomings in **management** practices.*

It must be noted that CASOMB has no direct authority. The Board is to exercise its influence by being an information resource for those charged with setting policy in the area of sex offender management. In addition, CASOMB's enabling legislation specifies that a number of Board appointees are to be - or have direct access to - decision makers within their respective agencies and organizations.

The preparation of this Report, then, is completely congruent with one of the Board's foundational principles: **good policy should be based upon comprehensive and accurate information**. One of the reasons behind the Board's creation was that there had been no good, unified, ongoing source of coherent reliable statewide information upon which to base policies about sex offenders (it is acknowledged that a number of useful reports and analyses focused on specific areas of interest have been made by various contributors). This Report represents the first step made by the Board to remedy that situation and address the need in this area.

It is fundamental to the Board's efforts to base policy recommendations on the best possible information, expertise, research, tested approaches and emerging best practices with proven success elsewhere.





One dimension of the Report requires identification of areas where the desired California knowledge base is incomplete and in need of improvement. In some cases there have been no previous efforts to gather and integrate information; in other cases the current systems have no mechanisms to collect the information that is needed. Since it is directed to do so by the legislation, the following Report does not hesitate to identify areas where there are gaps in the collection of information about sex offenders which those who make and implement policy in this area ought to be able to access.

The intent of this assessment of the current status of California's management of sex offenders is to lay the groundwork for identifying which policies and practices do and which do not make the state's communities safer and promote the recovery of those who have been victimized as well as identifying which new policies and practices might improve those efforts.


The direction provided by the enabling legislation does not explicitly include an expectation that recommendations are to be made at this stage of the Board's efforts. Instead the legislation envisions the recommendations coming at a later point in the Board's work. The wording is as follows:

*(2) Develop recommendations, based upon the findings in the assessment, to improve management practices of adult sex offenders under supervision in the community, with the goal of improving community safety. The plan shall address all significant aspects of community management including supervision, treatment, housing, transition to the community, interagency coordination and the practices of other entities that directly or indirectly affect the community management of sex offenders. The board shall provide information to the Legislature and Governor as to its progress by January 1, 2009. The completed plan shall be submitted to the Legislature and the Governor by January 1, 2010.*

As noted earlier, the acceleration of proposed and adopted new policies and approaches in the area of sex offender management had not been anticipated at the time the enabling legislation was written.

The Board recognizes that its efforts to fill the gaps noted in the assessment and to develop recommendations, particularly with regard to rapidly emerging issues and problems, must be put on a fast track.

Though it hardly needs stating, most of those who are involved in some way with the community management of sex offenders recognize that the problems to be faced and solved are extremely complex and that some attempted solutions may have unanticipated and unintended consequences. Many agencies and systems are involved as well as different levels of government with, at times, pre-existing tensions. Often there is a political dimension to the policies that may move policy in directions not completely congruent with the knowledge base currently available in this field. Sexual offending is a



highly emotionally charged topic and thinking clearly about how best to respond is not always easy.

It may need stating that the Sex Offender Management Board was not created by Jessica's Law and was not created in order to respond to the concerns generated as a result of Jessica's Law. Such issues are certainly within the Board's defined scope of attention but the Board's attention is required to extend considerably beyond these issues. As noted above:

*9002. (a) The board shall address any issues, concerns, and problems related to the community management of adult sex offenders. The main objective of the board, which shall be used to guide the board in prioritizing resources and use of time, is to achieve safer communities by reducing victimization.*

It is the intention of the Board that this Report should be a first step along the challenging path of providing guidance and resources to those who are tasked with setting policies for California that will best safeguard all of its citizens from the tragedy of sexual victimization.

On November 7, 2006, California voters overwhelmingly approved Proposition 83, titled "The Sexual Predator Punishment and Control Act: Jessica's Law" which made significant and sweeping changes to the sentencing, supervision and permitted residential locations of offenders convicted of specified crimes. Proposition 83 also made substantial changes related to the screening and treatment of Sexually Violent Predators.

During the research phase this Report, the CASOMB conducted interviews, took testimony and invited public comment related to California's sex offender management practices. Public safety officers, local elected officials, victims' advocates, correctional personnel, treatment providers and community members from across California offered their considered and experienced perspective on a variety of issues related to the management and supervision of sex offenders. Many who provided input had pointed questions and comments which were related to implementation challenges posed by Proposition 83 and requested that the CASOMB relay these concerns to the leaders in state government who could provide clarification and assistance. The issues, questions and concerns raised related to Proposition 83 have been identified in each of the sections of this report.

The majority of the elements of Proposition 83, particularly those related to sentencing, have been codified and implemented without difficulty since its passage. What remains, however, are a few significant sections of the initiative which pose implementation and enforcement challenges that will likely require clarification from the courts or through legislation. It is the hope of the CASOMB that by identifying these areas of challenge policymakers will have the framework to begin to address these issues and promote solutions.

## METHODS

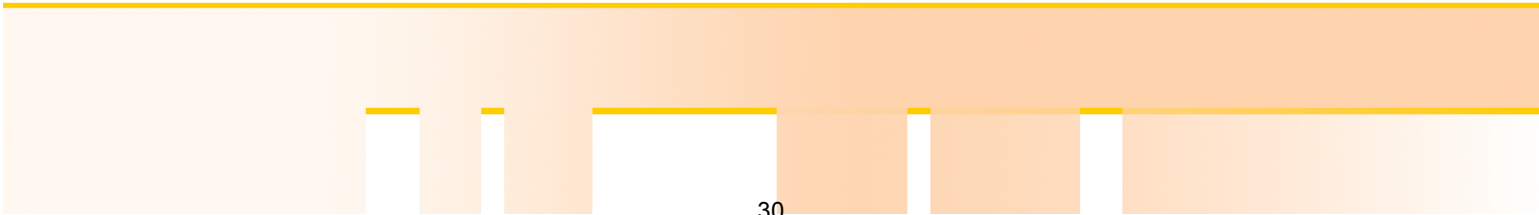
The Steering Committee of the Board collaborated with the Division of Criminal Justice at California State University, Sacramento regarding the information provided in this report. The subcommittees gathered information in several of the areas (housing, supervision, treatment, victim services, and community education) and provided this information to the researchers at Sacramento State. The researchers compiled this information and worked on gathering the most current scientific and legal information available regarding sex offender management and California statistics. The Steering Committee and the Board met with the researchers to assure a collaborative effort. The Board was additionally charged with:

*(b) The Board shall conduct public hearings, as it deems necessary, to provide opportunities for gathering information and receiving input regarding the work of the board from concerned stakeholders and the public.*

The public hearings took place in the month of January 2008, in the cities of San Francisco, Bakersfield and San Bernadino. The purpose of the hearings was for Board members to receive feedback on the draft report highlights prepared by the Board Committees. The reports were an assessment of the current sex offender management system in California and identified gaps in the system. The hearings also served as an opportunity for local county and city organizations to discuss current sex offender management challenges and best practices in the area. The Board (with the help of the California Department of Corrections and Rehabilitation staff) invited stakeholders to participate in the planning process. These organizations included the California District Attorney's Association, California State Association of Counties, League of California Cities, California State Sheriffs' Association, California Police Chiefs Association, Chief Probation Officers of California, Victim/Witness Organizations, and others.

## RESULTS

The information gathered at the meetings was infused into the draft report prepared by the researchers at California State University, Sacramento and a finalized version of the report was prepared collaboratively by the researchers and the Board. The timeframe of the Report did not lend an analysis capable of determining detailed recommendations. However, the information is an up-to-date effort providing readers with detailed information regarding current sex offender management practices, evidence-based practices, and what is both known and unknown regarding California sex offenders. The Report offers many strengths (what California is doing well), as well as many gaps in sex offender management practices. Each section ends with recommendations for future research that would aid the next report in making definitive recommendations for better sex offender management practices and enhancing public safety in California.



# 1

## **PREVALENCE OF SEXUAL ASSAULT AND SERVICES FOR VICTIMS**



## INTRODUCTION

In the studies of sexual assault to date, the effects on the victims have been described as profound. When the sexual assault occurs during childhood, the consequences on both the physical and mental health of the victim can be lifelong. Victims are more likely than non-victims to experience a major depressive episode. Victims are more likely than non-victims to have contemplated suicide. The significance and scope of sexual assault is a major criminal justice issue with an impact on wider society.

The purpose of this section is to summarize the effects of sexual assault on victims and examine the services available to victims. The Report begins with an overview of the prevalence and victimization patterns of sexual assault and a discussion of the effects of sexual victimization. The Report then describes the primary services available to victims, including direct services and compensation for economic losses. This section of the Report concludes with an examination of California's efforts toward educating the public regarding the risks and effects of sexual assault.

## TOPICS IN PREVALENCE OF SEXUAL ASSAULT AND SERVICE FOR VICTIMS

- Prevalence and Incidence of Sexual Assault
- Effects of Sexual Assault
- Victim Service Providers and Sex Offender Management
- Victim Restitution
- Reasonable Services for Victims
- Victims Compensation and Governemtn Claims Board
- Victim/Witness Assistance Programs
- Victim Notification

## PREVALENCE AND INCIDENCE OF SEXUAL ASSAULT


The National Institute of Justice and the Centers for Disease Control and Prevention jointly sponsored, through a grant to the Center for Policy Research, a national survey that was conducted from November 1995 to May 1996 (NIJ, 2000). A total of 8,000 women and 8,005 men age 18 and older were interviewed and this provided comparable data on women's and men's experience with violent victimization, including sexual assault. The survey, which was published November 2000, produced the following results:

- **One of six U.S. women and one of thirty-three U.S. men have been victims of a completed or attempted sexual assault.**
- More than half (54%) of the female victims were younger than age 18 when the assault occurred. 21.6% were younger than age 12 when the sexual assault occurred, and 32.4% were ages 12 to 17.

- Nearly three-quarters (71%) of the male victims were younger than age 18 when they experienced their first sexual assault.
- There is a relationship between victimization as a minor and subsequent victimization: Women who reported they were sexually assaulted before age 18 were twice as likely to report being sexually assaulted as an adult.
- Sexual assault prevalence varies between Hispanic and non-Hispanic women: Hispanic women were significantly less likely than non-Hispanic women to report they were sexually assaulted at some time in their life.
- American Indian/Alaska Native women and men report more violent victimization than do women and men of other racial backgrounds. American Indian/Alaska Native women were significantly more likely than white women, African-American women, or mixed-race women to report they were sexually assaulted.
- Sexual assault is often accompanied by physical assault: 41.4% of women and 33.9 % of men who were sexually assaulted since age 18 were physically assaulted during the attack. Physical assaults included slapping, hitting, kicking, biting, choking, hitting with an object, beatings, and the use of a gun or other weapon. Women are significantly more likely than men to be injured during as assault: 31.5% of female victims, compared with 16.1% of male victims.
- The risk of injury increases among female victims when their assailant is a current or former intimate: Women who were sexually or physically assaulted by a current or former spouse, cohabiting partner, boyfriend, or date were significantly more likely than women who were sexually or physically assaulted by other types of perpetrators to report being injured during their most recent sexual or physical assault.

Results from the survey show that most children and adolescents are sexually assaulted by someone they know. **Only 14.3% of the women and 19.5% of the men sexually assaulted before age 18 were assaulted by a stranger.** In comparison, nearly half of the women and men (46.7% and 44.2%, respectively) sexually assaulted before age 18 were assaulted by an acquaintance; about one-third (38.8% and 30.5%, respectively) were assaulted by a relative other than a spouse; and 15% of the women and 6.5% of the men were assaulted by a current or former intimate partner. The survey results are supported by another study conducted by the Bureau of Justice Statistics, which reported that nearly **nine out of ten assault victimizations involved a single offender, of which, 73.5% had prior relationship as a family members, intimate, or acquaintance.** (Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, Sex Offenses and Offenders: Analysis of Data on Rape and Sexual Assault, Greenfield, 1997).

The National Center for Juvenile Justice issued a report in July 2000, which studied the sexual assault of young children (NIJ, 2000). The study showed that over two-thirds (67%) of all victims of sexual assault reported to law enforcement agencies were juveniles (under the age of 18 at the time of the crime). More than half of all juvenile victims were under age 12. That is, 33% of all victims of sexual assault reported to law enforcement were ages 12 through 17 and 34% were under age 12. Most disturbing is



that one of every seven victims of sexual assault (or 14% of all victims) reported to law enforcement agencies were under age 6. The single age with the greatest proportion of sexual assault victims reported to law enforcement was age 14. Juveniles were 84% of the victims of forcible fondling, 79% of the victims of forcible sodomy, and 75% of the victims of sexual assault with an object.

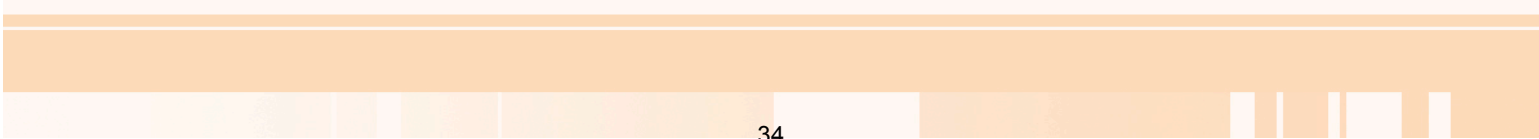
Based on the report, females were more than six times as likely as males to be the victims of sexual assaults known to law enforcement agencies. **The year in a male's life when he is most likely to be the victim of a sexual assault is age 4. A female's year of greatest risk is age 14.** Overall, female victims of sexual assault were more likely to experience multiple offenses than were male victims (5% versus 3%).

Young victims were generally more likely to be victimized in a residence than were older victims. The age of the victim was reported as strongly related to where the assault occurred. 77% of sexual assaults with juvenile victims occurred in a residence compared with 55% of adult victimizations. Older juveniles were more likely than younger juveniles to be victimized in a location other than a residence. The most common non-resident locations for sexual assaults of juveniles were roadways, fields/woods, schools, and hotels/motels.

The time of day when sexual assaults occurred was related primarily to the age of the victim. For adult victims, sexual assaults were most common between midnight and 2 a.m. For children under age 6, the primary pattern for sexual crimes showed a peak in the 3 p.m. hour. The secondary pattern for the sexual assaults of very young children shows the hours of 8 a.m., noon, and 6 p.m. to be periods when the number of sexual assaults of very young victims spike.

Almost half (49%) of the offenders of victims under age 6 were family members, compared with 42% of the offenders who sexually assaulted youth ages 6 through 11, and 24% of offenders who sexually assaulted juveniles ages 12 through 17. Except for victims under age 6, most sexual assault offenders were not family members but were otherwise known to the victim. **60% of all sexual assault offenders were classified by law enforcement as acquaintances of the victim. Just 14% of offenders were strangers to their victims.** Just 3% of the offenders in the sexual assaults of children under age 6 were strangers, compared with 5% of the offenders of youth ages 6 through 12, and 10% of offenders of juveniles ages 12 through 17.

Persons with mental retardation or developmental disabilities are particularly vulnerable to sexual offenders. While the threat of sexual assault of women, children and men is great in California, those living with disabilities face a significantly greater risk for sexual assault. Though advocates from allied professions continue to improve protection, intervention and prosecution of perpetrators of sexual assault against persons living with disabilities, identification, reporting and system responses continue to be weak. Those living with disabilities comprise such a heterogeneous population that generalizations about their risk for sexual abuse can be tenuous. On one hand, women with disabilities






are diverse in age, race-ethnicity, class, gender identity, and sexuality. On the other hand, the variety of conditions considered a disability is wide and can include physical injuries, chronic disease, mental illness, and sensory and/or cognitive impairments—all of which may make a significant difference in the risks and forms of abuse. An early study of women with a variety of disabilities (Doucette, 1986), which estimated this population to be one and a half times as likely to have been sexually abused as their counterparts without disabilities. **Of all children physically or sexually abused, 15-17% had disabilities** (National Center on Child Abuse and Neglect, 1993). It is estimated that persons with mental retardation or developmental disabilities have 4 to 10 times higher risk of being crime victims (Petersilia). The victim's childlike quality of thinking, trust of authority, and desire to please make them easy prey for sexual offenders. Persons with mental retardation or developmental disabilities are heavily dependent on their caregivers and lack knowledge on how to protect themselves. Cases involving victims with mental retardation or developmental disabilities are difficult to investigate and prosecute because the victim lacks the ability to advocate on their own behalf, possesses few communication skills, and ultimately may lack credibility as a witness. Awareness of violence against women who are deaf is increasing as a result of the strong work of deaf advocates. Organizations like DeafHope in Oakland, California, and other advocacy groups serving deaf women and children who have been sexually assaulted and abused, are working more closely with the criminal justice system, the medical communities and other advocacy groups to identify, report and obtain justice on behalf of deaf women and children.

## **EFFECTS OF SEXUAL ASSAULT**

Sexual assaults can be exceptionally threatening traumatic events outside the range of usual human experience. While some victims exhibit a greater ability to adapt and a higher resiliency, generally, victims of sexual assaults are markedly distressed, though the effects may not be seen for months or years later because the distress is often gated away, unfelt and kept in storage as suffering. Whether the effects of sexual assaults are easily visible or not, the stress reaction is commonly understood to be a “shattered worldview,” which leads to profound feelings of distrust. The victim's world has previously—that is, before the assault—been basically safe and fair. A sexual assault shatters the victim's assumptions about the world, because the world is experienced—that is, after the assault—as unsafe and unjust, which causes a sense of isolation and estrangement from others. Victims may suffer psychological reactions including a disassociation and an intense fear for their lives. When the assault is perpetrated by an acquaintance, friend, or lover, violation of trust can be a life-altering issue for the victim. A victim may lose their sense of community and belonging as a result of intense feelings of guilt and devaluation.

**The traumatic effects of sexual assaults involving child victims can have a lasting impact on the child's physical and mental health, overwhelming the child's coping and ego defense mechanisms and threatening the child's physical integrity.** Beyond the immediate consequences of a sexual assault, the residual effects presage problem



behaviors in adolescence and adulthood. Childhood victimization is a significant predictor of adult arrests for alcohol and/or drug-related offenses (NIJ, 1995). Childhood victimization has been found to be a statistically significant predictor of having at least one alcohol or drug-related arrest in adulthood. The indirect path between childhood victimization and adult substance abuse arrest has been well demonstrated. Child victims of sexual offenses are more likely to have an arrest as a juvenile, and those arrested as juveniles are at greater risk for arrest for alcohol or drug offenses as adults. Child victims of sexual assault—female victims, especially—are more likely to be arrested for property, alcohol, drug, and such misdemeanor offenses as disorderly conduct and curfew violations (NIJ, 2001). The significance of the offense profoundly harms the child's parents as well. Once the offense is discovered, it is common for the child's parents to experience a deep sense of guilt and failure—which provides but a single glimpse of the impact on wider society.

The range of symptoms that may be present in child victims of sexual offenses include:

- Attempts to touch the genitals of others
- Sexualized play
- Detailed and age-inappropriate knowledge of sexual activity
- Excessive masturbatory behavior
- Reluctance to undress
- Avoidance of touch
- Increased startle response
- Hypervigilance
- Extreme fluctuations in heart rate
- Sleep disturbance (bed wetting, nightmares)
- Aggression
- Truancy or runaway behavior
- Self-mutilating/suicidal ideation
- Flashbacks
- School adjustment problems
- Low self-esteem
- Feelings of helplessness
- Withdrawal/depression
- Regression
- Anxiety/irritability

Adult victims of sexual assault suffer psychological sequelae most widely described in diagnostic terms as Post-Traumatic Stress Disorder (PTSD). **The clinical diagnosis of PTSD has helped to acknowledge the significance of the harm caused to victims of sexual offenses, and the extent of the violation experienced.** PTSD includes a range of psychological distress symptoms including:

- Fear
- Emotional numbness

- Flashbacks
- Nightmares
- Obsessive thoughts
- Anger
- Humiliation
- Shame
- Self-blame
- Suicide ideation

Nearly one-third of all sexual assault victims develop PTSD in their lifetime (National Victims Center and Crime Victims Research and Treatment Center, 1992). Sexual assault victims are more likely than non-victims to experience a major depressive episode in their lives. Sexual assault victims are more likely than non-victims to have contemplated suicide and more likely to have made a suicide attempt. Sexual assault victims may use prescription drugs non-medically and are more likely to experience alcohol abuse. Profound effects on the relationships and social life of sexual assault victims impact intimate partner, friendship and family relationships. The victim's work life, leisure activities and community life may be disrupted and altered. **Furthermore, sexual assault victims commonly suffer “secondary injury” through their experience of the response of the criminal justice system and health service providers.** Victims may receive other harmful and negative responses from friends, family and broader society. Financial losses, including loss of earnings, loss of earnings capacity, medical expenses and a myriad of intangible costs not measurable in monetary terms may be associated with sexual victimization.

For victims of sexual assault, integration and resolution is seldom a linear process. Victims may return to various stages from time to time in a back-and-forth process. Sexual offenses are capable of creating almost any psychophysicologic reaction or disorder. In addition, a wide variety of stress related physical illnesses may arise as a result of sexual assault, including acute hypertension, inflammation of the gastrointestinal system, tension headaches, migraine headaches and so forth. The psychological hypersensitivity inherent in trauma appears to arise from the fact that some aspect of the victim's worldview has been contradicted. Thus the sexual assault represents a piece of the puzzle of life that simply refuses to be normally integrated into the overall picture. It was Abraham Maslow (1970) who told us that other than the need for physical survival, the need for “safety” was the most powerful human need of all. In order to make a complex and otherwise indefinable world “safer,” humans tend to construct overarching schematic worldviews, which help the human experience. When something terribly aversive happens—sexual assault, for instance—that does not fit into the scheme, the effect is post-traumatic stress. The world is no longer safe and will not be safe until some understanding and predictability can be brought to the world again. The trauma associated with sexual assault has the potential to literally consume the victim's life. The reiterative nature of the resulting disorder is nothing less than a potentially never-ending effort to make sense out of the world in the face of traumatic evidence that the victim's worldview is inadequate and therefore no longer protective.

## VICTIM SERVICE PROVIDERS AND SEX OFFENDER MANAGEMENT

Victim service providers work directly with crime victims and come into contact with them on a daily basis. **Victim service providers are eminently qualified to assist in managing sex offenders from a victim-focused perspective, due to their history of working with and on behalf of sexual assault victims.** Their knowledge of the needs of victims can enhance sex offender management policy development, professional training initiatives, day-to-day practices, and community notification and education efforts. In addition, victim service providers offer services to victims to respond to issues that may arise when their perpetrators are released on probation or parole. Involving victim service providers also assures that community and governmental bodies are responsive to victims' needs and establish policies that condemn and prevent sexual offenses. If offenders disclose crimes with new victims during supervision or treatment, victim service providers can work with supervision agencies and treatment providers to consider ways to offer assistance to these victims. Victim service providers can help victims achieve their personal goals with the criminal justice system, instead of goals defined by prosecutors, judges, probation and parole officers, and sex offender treatment providers.

The involvement of victim service providers traditionally has tapered off after sentencing. However, victim safety and well-being must continue to be a priority when convicted offenders are released on probation or parole. Though the concept of involving victim service providers in sex offender management is in its infancy, the Center for Sex Offender Management (CSOM), a project of the Office of Justice Programs, U.S. Department of Justice, suggests that victim service providers can assist victims in the following ways once a sex offender is released on probation or parole:

- Explaining the community supervision and treatment program to victims.
- Making sure victims are informed of changes in offenders' status and conditions of supervision.
- Helping victims develop a safety plan.
- Facilitating victim input regarding supervision and treatment plans.
- Ensuring that treatment providers view their responsibility to the victim as equal to their responsibility to the offender with whom they are working.
- Participating in case review meetings and sharing information that promotes informed case decisions that promote victim protection.

Furthermore, the CSOM promotes a more comprehensive victim-centered approach including:

- Educating stakeholders about the benefits of a victim-centered approach.
- Identifying promising practices.

- Encouraging victim service providers to take a leadership role in advocating for the needs of victims of sex offenders supervised in the community and new victims identified in the process of sex offender management.
- Encouraging multi-disciplinary training among supervision agencies, sex offender treatment programs and victim service providers.
- Helping agencies build their capacity to collaborate.
- Supporting the establishment of sex offender supervision units that include a role for victim service providers.

## **VICTIM RESTITUTION**

Restitution is an important part of an offender's sentence. It is effectively a rehabilitative penalty in that it increases accountability by holding the offender financially responsible for the crime, and compensating the victim for the costs caused by the offender's actions. In every case where the sexual offender is convicted, the court imposes a restitution fine. The court may determine the amount of the fine as the product of two hundred dollars (\$200) multiplied by the number of years of imprisonment the offender is ordered to serve, multiplied by the number of felony counts of which the offender is convicted. Misdemeanor offenses are assessed at a minimum of one hundred dollars (\$100). The offender's inability to pay is not to be considered a compelling reason not to impose a restitution fine. Inability to pay is considered only in increasing the amount of the restitution fine in excess of the minimum fine.

Wherever the victim has suffered economic loss as a result of the offender's conduct, the court requires the offender make restitution to the victim in an amount established by court order, based on the amount of loss claimed by the victim. If the amount of loss cannot be ascertained at the time of sentencing, the restitution order includes a provision that the amount shall be determined at the direction of the court. Economic losses incurred by victims as the result of sexual offenses include, but are not limited to, all the following:

- Full or partial payment for the value of stolen or damaged property.
- Medical expenses.
- Wages or profits lost due to injury incurred by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, while caring for the injured minor.
- Wages or profits lost by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, due to time spent as a witness or in assisting the police or prosecution,
- Noneconomic losses, including, but not limited to psychological harm, for felony violations of Penal Code Section 288.
- Interest at a rate of 10 percent per annum that accrues as of the date of sentencing or loss, as determined by the court.

- Actual and reasonable attorney's fees and other costs of collection accrued by a private entity on behalf of the victim.

**No costs incurred by a qualified health care professional, hospital or other emergency medical facility for the examination of the victim of a sexual offense when the examination is performed for the purposes of gathering evidence for possible prosecution may be charged directly or indirectly to the victim.** Those costs are treated as local costs and charged to the local governmental agency in whose jurisdiction the offense was committed (Penal Code Sec. 13823.95).

Since a sexual offender's probation may not be revoked for failure to pay restitution unless the offender willfully failed to pay and had the ability to pay, many sexual offenders reach the end of their probation terms without making full restitution.

In March 2006, the California Department of Corrections and Rehabilitation, Office of Victim and Survivor Services published the results of a study relating to adult inmate restitution (CDCR, 2004). The study included men and women at state prisons and camps, but did not include community correctional facilities or parolees. The most striking finding included was that only eleven percent of all offenders had direct restitution orders. Of those offenders with direct restitution orders only nineteen percent of the victims had requested collection. The study concluded . . . ***victims' constitutional right to receive restitution from their offenders continues not to be honored or enforced in California at this time.***


## REASONABLE SERVICES FOR VICTIMS

The President's Task Force on Victims of Crime concluded in its 1982 Final Report that there was a serious imbalance between the rights of criminal defendants and the rights of crime victims. The report led to a proliferation of victims' rights legislation at the state level. However, notwithstanding legislative reforms, there continues to be a serious imbalance between the rights of criminal defendants and the rights of crime victims.

Crime victims not only need to be notified about events and proceedings in the criminal justice process, they also need to be informed of their legal rights. **Victim rights can be ensured only if resources are sufficient.** Formal help sources for victims of sexual assault include justice-based and non-governmental victim service programs, as well as other helping agencies that serve victims as part of their larger mission (e.g., healthcare and mental healthcare facilities). The goal of the California Sex Offender Management Board includes examining victims' needs for services, their use of formal help sources, victims' satisfaction with formal help sources, and needs that are not addressed.

The provision and funding of direct crime victim services is currently spread across several state departments and agencies that have little interaction. These include four Cabinet-level agencies, the Governor's office, two other constitutional offices, and at least 11 state departments (California State and Consumer Services Agency, 2003). The





major sources of funding for crime victim services include the Victim Compensation and Government Claims Board, the Office of Emergency Services, and the Department of Public Health's Battered Women's Shelter Program. In addition to these entities, other departments play a role in the provision of crime victim services, including the Attorney General's Office, the Department of Corrections and Rehabilitation, the Department of Social Services, and the Department of Mental Health. The lack of a single lead agency at the state level results in limited collaboration, duplication of services, ineffective partnerships, and the absence of a statewide strategic approach to funding decisions.

**Without a statewide strategic approach to funding decisions, or a systematic method for communication and collaboration among the many public and private providers who serve crime victims, collaboration on crosscutting victims' issues is the exception.** The collaboration that does take place is generally ad hoc, haphazard, and depends on individual personalities and preferences (California State and Consumer Services Agency, 2003).

Primary among the professional service providers for sexual assault victims are the Victims Compensation and Government Claims Board (VCGCB), Victim/Witness Assistance Programs, Rape Crisis Centers, and Child Advocacy Centers.

## **VICTIMS COMPENSATION AND GOVERNMENT CLAIMS BOARD**

California's Victims' Compensation and Government Claims Board is entitled to offender restitution where the program has provided assistance to or on behalf of a victim. The amount of assistance provided is presumed to be a direct result of the offender's criminal conduct. The California Victim Compensation program is the largest in the nation. Supported by a mix of federal and state funds derived from restitution fines paid by offenders, the program has a dual mission: to meet victims' financial needs as fully as possible, while also complying with regulations limiting payments to certain conditions and guarding against misuse of public funds through fraud or abuse. Crime can leave victims and their families with bills for medical, mental health counseling, funeral services, lost wages, and with the financial costs associated with a number of other consequences of the crime. The compensation program, which is a claims-based program, supports direct payments to victims and providers for crime-related expenses. However the program exists to provide help to the victim and family members after all other reimbursement sources have been utilized. In other words, the program is the payer of last resort. Victims are reimbursed only after other available funds have been exhausted. Other sources of reimbursement include:

- All forms of private and public insurance benefits, including medical, disability, wage loss, liability and casualty insurance, including vehicle, commercial and residential insurance.
- All forms of public and private assistance paid to, or on behalf of, the victim, the victim's survivors, or derivative victim, including Medi-Cal, social security, state disability insurance, Worker's Compensation and Medicare.

- Any restitution paid by the offender directly to the victim or his or her survivors whether collected by public agencies and paid over to the recipient or collected directly by the recipient.

California has made some progress in reducing burdens inherent in the application process, such as more proactive verification procedures to increase approval rates and decrease claims processing time. Claims processing could see further improvements as community-level victim advocates are better trained in compensation policies and procedures, and can provide better service to victims. A National Institute of Justice-sponsored study conducted by the Urban Institute assessed the efficiency and effectiveness of victim compensation programs in meeting the needs of crime victims. The study included California and suggested the claims-based state victim compensation needed to be better coordinated with local direct service providers, particularly in the area of assertive outreach that would link victims with services. Nearly 200,000 violent crimes were reported in California during fiscal year 2004-2005. For the same period, the Compensation Program paid claims for 40,000 victims, or 20% of victims reporting crimes, emphasizing the need for assertive outreach linking victims with compensation services.

As a recipient of federal Violence Against Women Act funds, California is required to provide medical treatment for sexual assault crimes at no charge to the victim. Further, California law prescribes that a sexual assault victim cannot be billed, either directly or indirectly, for any treatment as a result of a sexual assault crime. While case law has determined that the Compensation Program is the “payer of last resort” unique to sexual assault is the prohibition of billing a victim, either directly or indirectly, including that victim’s insurance. Therefore, in compliance with both federal and state law, the victim of sexual assault shall never be financially responsible for paying for treatment arising out of his or her own sexual assault victimization.


## **VICTIM/WITNESS ASSISTANCE PROGRAMS**

There are 58 Victim/Witness Assistance Programs in California. The majority of Victim/Witness Assistance Programs (44) are located in the offices of district attorneys. The remainder is located in probation departments or community-based non-profit organizations.

Victim/Witness Assistance Programs must meet all the following requirements:

1. Provide comprehensive services to victims and witness of **all** types of crime.
2. Recognized by the board of supervisors as the major provider of comprehensive services to victims and witnesses in the county.
3. Be selected by the board of supervisors as the agency to receive state funds.





Victim/Witness Assistance Programs provide services regardless of whether the victim has reported the crime to the criminal justice system. **These programs can help ease victims' entry into and journey through the criminal justice system due to their ready access to case information, their relationships with other criminal justice personnel, and their in-depth knowledge of the system.**

Victim/Witness Assistance Programs are required to provide all the following services to victims:

- Crisis intervention
- Safety planning
- Emergency assistance
- Resource and referral assistance
- Victim compensation claims
- Property return
- Orientation to the criminal justice system
- Court escort
- Presentations and training for criminal justice agencies
- Public presentations and publicity
- Case status/case disposition
- Notification of family/friends
- Employer notification/intervention
- Restitution

Many Victim/Witness Assistance Programs provide the following optional services to crime victims:

- Employer intervention
- Creditor intervention
- Child care assistance
- Witness notification
- Funeral arrangements
- Crime prevention information
- Witness protection
- Restraining/protective order assistance
- Transportation assistance
- Court waiting area

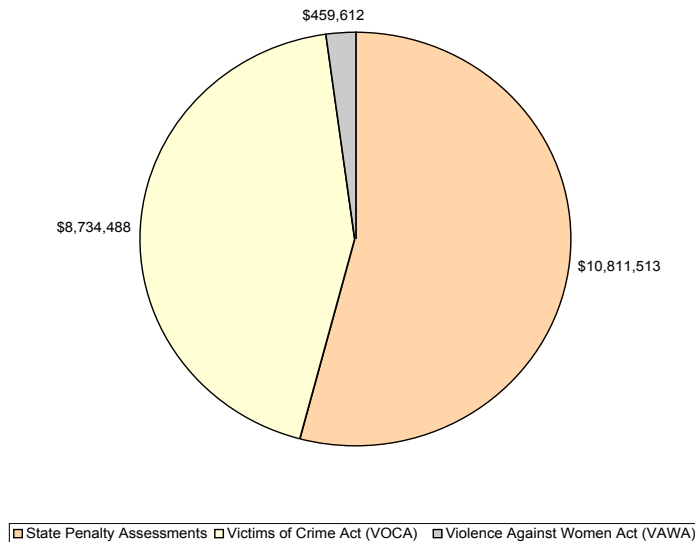
For fiscal year 2005-2006, Victim/Witness Assistance Programs provided direct services for 150,000 crime victims, which represents an increase in the number of victims served by 34% over fiscal year 2002-2003.

For fiscal year 2006-2007, Victim/Witness Assistance Programs provided services to 14,188 child victims and 6,352 adult victims of sexual offenses.

Funding for Victim/Witness Assistance Programs is a mix of federal Victim of Crime Act (VOCA) dollars and state penalty funds. **There has not been an increase in funding for Victim/Witness Assistance Programs for nearly a decade, which has resulted in a reduction of state-funded victim advocates available to respond to the needs of California's crime victims.**

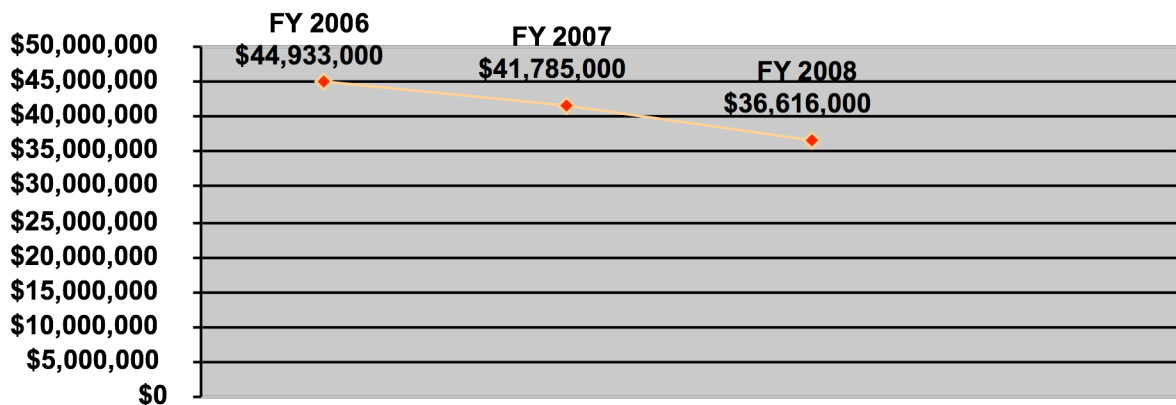
Chart 1-1.

FUNDING SOURCES FOR VICTIM/WITNESS PROGRAMS



Federal Victims of Crime Act funding represents a substantial source of funding for Victim/Witness Assistance Programs in California. As shown below, federal funding for California's Victim/Witness Assistance Programs is declining.

Chart 1-2.



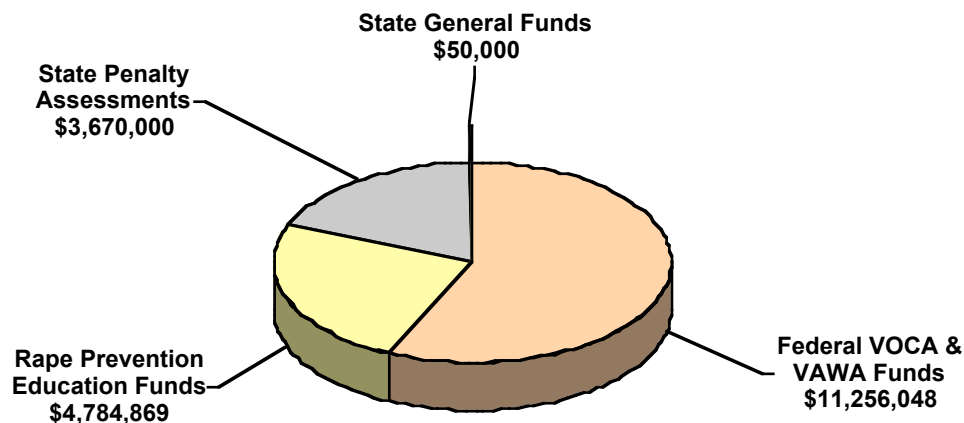
## Rape Crisis Centers

There are 65 community-based non-profit organizations operating 84 rape crisis programs in California. Rape Crisis Centers work to combat sexual victimization through provision of services, advocacy on behalf of victims, training, education, and public awareness initiatives. The Centers usually offer free, confidential services to victims of sexual offenses. Victims can access services regardless of whether they report their assault to the criminal justice system. Services may include the following:


- 24-hour crisis line
- Crisis intervention
- Direct counseling services (individual and group)
- Resource and referral assistance
- Community education
- Interview and court accompaniment
- Safety planning

For fiscal year 2006-2007, Rape Crisis Centers provided direct services for 9,300 child victims of sexual offenses and 21,389 adult victims.

Fiscal year 2006-2007 funding for Rape Crisis Centers is a mix of federal VOCA and VAWA funds and state penalty assessments as shown below:



**An important distinction between the services offered by Victim/Witness Assistance Programs and Rape Crisis Centers is the degree of confidentiality afforded to communications with victims.** Victim/Witness Assistance Programs are usually obligated to provide information about victims to criminal justice personnel that may



facilitate the investigation and prosecution of the case. In contrast, Rape Crisis Centers are obligated to focus solely on the needs of victims. To this end, most Rape Crisis Centers have confidentiality policies that prohibit advocates from disclosing information about victims to a third party without the consent of the victim.

### **Child Advocacy Centers**

The California Network of Child Advocacy Centers reports that there are 68 child advocacy centers in California. All but nine counties report at least one Child Advocacy Center. Counties reporting no center include: Alpine, Amador, Del Norte, Los Angeles-Antelope Valley, Mendocino, Modoc, Plumas, Shasta, and Tehama (Child Abuse Training and Technical Assistance Center, 2004).

Typically, Child Advocacy Centers provide services to child victims and their families. Agencies responsible for the protection of children can coordinate their efforts through Child Advocacy Centers, in order to prevent further trauma to child victims. While services vary, Child Advocacy Centers usually provide a child-friendly atmosphere to conduct investigative interviews and medically examine children suspected of being abused or neglected. Many Centers also conduct investigative interviews and medical exams for elder victims and child witnesses to domestic violence.

Child Advocacy Centers in California do not currently receive any state or federal funding.

### **VICTIM NOTIFICATION**

The right to participate in the judicial process is important to victims of crime. However, victims cannot participate unless they are informed of their rights and of the time and place of the relevant proceeding in which they may exercise those rights. Without notification, victims of sexual offenses are also denied the ability to take precautions for their safety. Therefore, the most fundamental right of a victim is the right to be kept informed. Notifying victims in advance of a proceeding and informing them of their rights to participate in that process are prerequisites to the exercise of the victim's rights. Keeping the victim informed should be an important part of the mission of local and state correctional agencies, and should be reflected in the correctional agency's internal policies and procedures, as well as in the attitudes of correctional personnel.

In 1982, the President's Task Force on Victims of Crime did not include recommendations for institutional corrections or probation, and made only four recommendations for parole. The Task Force urged parole boards to:

- Notify victims of crime and their families in advance of parole hearings, if names and addresses have been previously provided by these individuals.

- Allow victims of crime, their families, or their representatives to attend parole hearings and make known the effect of the offender's crime on them.
- Take whatever steps are necessary to ensure that parolees charged with a crime while on parole are immediately returned to custody and kept there until the case is adjudicated.
- Not apply an exclusionary rule to parole revocation hearings.

Increasingly, correctional institutions are realizing that victims are important clients. The California Department of Corrections and Rehabilitation now includes an Office of Victim and Survivor Services. The Office of Victim and Survivor Services is responsible for enforcing the victim's right to be notified when the offender is scheduled to be released from state prison. Victims also have the right to be notified if the offender escapes from an institution or re-entry facility, or if the offender dies while under the supervision of the California Department of Corrections and Rehabilitation. To receive notification, the victim must request notification by completing the State of California Request for Notification (CDC Form 1707).

Only inmates sentenced to life in prison with the possibility of parole receive a parole suitability hearing. The victim or if the victim has died, two close family members may attend and speak at the hearing in the following order of priority:

- Spouse (including registered domestic partners)
- Children
- Parents
- Siblings
- Grandchildren
- Grandparents

One support person may accompany the victim or each family member to the hearing.

**While victims have the right to attend parole hearings, deliver a victim impact statement, and request that special conditions of parole be placed on the offender, the cost of attending the hearing is a burden placed on the victim or the victim's family.** No state funding is available to assist the victim or the victim's family with the expense associated with attending a parole suitability hearing, nor is the expense reimbursable through the Victims of Crime Compensation and Government Claims Board.

As the rate of incarceration in California's state prisons increases, community correction is likely to be increasingly used as a spillway for prisons. Local jails should also provide basic services for victims of sexual offenses, such as notification of changes in offender status and collection of court-ordered restitution. Notification of the pending release of an alleged or convicted offender is directly related to protecting the safety of victims.

Probation is a widely used correctional tool. Today, the supervised population tends to be more violent, substance abusing, and transient. Professionals in the field of community corrections face tremendous challenges in working with these offenders, who can pose an increasing threat to their victims and to the community at large (U.S. DOJ, Office for Victims of Crime). The California Sex Offender Management Board is currently engaged in reviewing whether or not local and state victim notification policies and methods are sufficient to be effective.

### **Summary of California's Strengths in Victim Assistance**

- Statutorily mandated training for victim advocates.
- Statutorily mandated training for rape crisis counselors.
- Statutorily defined services for California Victim/Witness Assistance Programs.
- Statutorily defined services for California Rape Crisis Centers.
- Team approaches through Vertical Prosecution programs that include a victim advocate.
- Collaborative team approaches through SARTs, MDICs, FJC's and SAFE Task Forces.
- Nation's largest victim compensation program.

### **Summary of California's Gaps in Victim Assistance**

- Lack of a statewide strategic plan for victim assistance resulting in inadequate planning for victim services and fragmented funding.
- Lack of funding for a victim advocate as part of Vertical Prosecution team.
- Lack of coordination among government agencies resulting in conflicting and duplicative policies.
- Uncertainty in funding from year-to-year.
- Lack of communication with and among service providers on significant policy issues.
- Lack of public awareness about victim compensation benefits and other rights of crime victims.

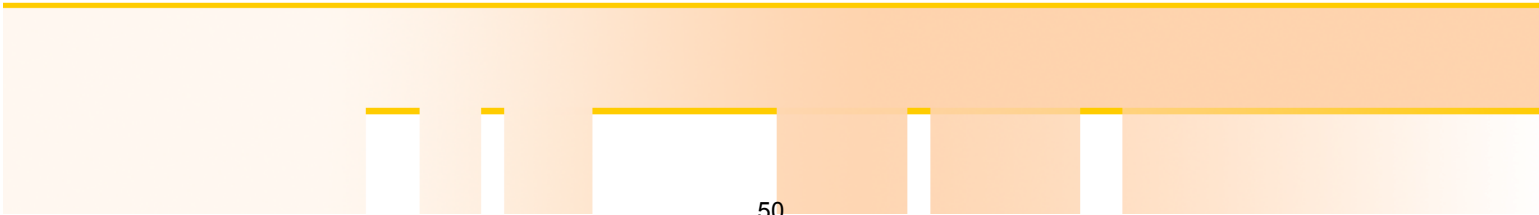
## Recommendations for Future Research

- The low compensation of victims. Only 20% of victims can be compensated through the state compensation program. Why are so few victims being compensated?
- The accuracy of the information on the Megan's Law website. As with any informational source, its usefulness depends on the accuracy of the information. Is the information on the website accurate?
- The impact of the increased number of registrants declaring themselves as transient on the effectiveness of the Megan's Law. As discussed in section 2 of this report, the number of registrants who had declared themselves as transient or had absconded has increased significantly. How has this impacted the usefulness of the Megan's Law website?
- Local authorities' compliance with victim notification. Though state statute provides for numerous notifications of victims of their rights, are local agencies complying with this requirement?
- CDCR's requirement to notify victims of the pending parole of the offender. How many victims are receiving notification of the pending parole of the offender? Why are all of the victims not receiving notice?
- Effectiveness of community education. How informed is the community about sex offenders and sex crimes? Have they utilized the community efforts of the state and local agencies? Are local citizen groups involved in educating the community? Are agencies providing the notifications required by statute?

## Proposition 83 and Victim Services

Proposition 83 amends Section 667.51 of the Penal Code to allow a court to impose upon a sex offender an addition fine, up to \$20,000, which would be deposited into the Victim-Witness Assistance Fund.

- This fine is optional, and does not address the funding shortfalls that victim service agencies face while attempting to provide essential services.





## NUMBERS AND DISTRIBUTION OF OFFENDERS



2

## INTRODUCTION

The starting place for any assessment of the management practices addressing California's identified sex offenders must be a review of the most basic information about this population: who they are, how they can be best classified and grouped, how many of each type there are, how they are distributed within the various systems that manage them, and so on.

In their effort to assemble the information of interest, the authors of this Report have taken the stance that the task is not only about collecting the desired information but also about understanding what information can and what information cannot be accurately characterized as "readily available." This phrase, "readily available," is to be understood as meaning the following: available at the "state" level to an authorized requester without requiring new efforts at gathering and compilation. Since CASOMB envisions – and was, in part, created to develop – a ready source of important information needed to guide policy with regard to sex offenders, determining which categories of information are not easily accessible and what additional efforts might be required to make them accessible is part of the Board's challenge.

For example, records on sex offenders may be maintained by individual county Probation Departments but if that information is not readily available – for all counties - to or through some centralized entity with a statewide scope, CASOMB identifies this as a "gap" in the information systems and in need of remediation.

The preparation of this Report did not entail undertaking any significant original research efforts. Based upon what has been learned from the process of compiling the information offered in this Section and elsewhere in this Report, some original data-gathering efforts initiated through CASOMB can be expected to follow in the future. Efforts to make currently obtainable information even more readily accessible and to find ways of presenting the data in easily-understood formats will also be undertaken.

With respect to most data about sex offenders, it must be noted that any picture of current conditions must be a "snapshot" that cannot readily capture the dynamic reality of a constantly changing scene. Prison and jail census figures, counts of those on parole and probation, Registration numbers and other data sets change daily. The implementation of new policies can create delayed ripple effects in entire systems. Finding improved ways to track and understand such a changing picture is one of the challenges CASOMB will endeavor to meet.

Once again calling attention to the complexity of the systems that have evolved to deal with sex offenders, the data provided here often require additional notes and explanations. For example: not all "sex offenders" in jails are actually reported as required to register; some sex offenders on parole may actually be in jail; not all counties keep their records of the sex offenders on probation in the same way. Gradually sorting through and making sense of these complexities in data collection and reporting is a future task for CASOMB.

## **SEX OFFENDERS WHO ARE NOT “SEX OFFENDERS”**

It should be noted that this report is focused on California’s management of identified “sex offenders” – a term that is further defined in this section. Gaining greater clarity about the numbers and distribution of identified sex offenders is one step on the road to better management, fewer victims and increased safety,

However, those who attempt to address the issues of sexual offending are quite aware that not all of those who have victimized others by engaging in sexual behavior that is forbidden by law have actually been successfully identified by the criminal justice system as “sex offenders.”

A large proportion of sexual offenses – both child molestation and adult rape – are never reported. Those who have perpetrated those crimes were not identified as sex offenders and may never be identified, unless they are apprehended for another offense that did get reported.


In addition, for various reasons quite apart from the actual innocence of the falsely accused, a high proportion of reported offenses fail to make the difficult journey through the criminal justice system to the desired result: a sex offense conviction for those who are truly guilty.

Although this Report continues to use the term “sex offender” to refer to those who have been convicted and are required to register, it is not without an awareness that there appear to be not a few actual sex offenders who have not been brought to justice, who cannot be identified and whose future possible offending behavior remains a concern – even though their “numbers” are not included within the scope of the present Report.

Knowing that approximately 90% of sex offenses are committed by individuals who had not previously been identified by the criminal justice system as “sex offenders” makes it clear that a focus on California’s registered sex offenders is tremendously important but is not, in itself, sufficient to assure increased community safety from sexual violence.

This initial effort to gather data about California’s sex offenders does not include – but provides a starting point for – thorough consideration of the most helpful ways to organize the available data. Subsequent efforts will determine which of the nearly infinite potential configurations is likely to be of most use moving forward.

In the material that follows, a very big-picture approach to creating a numerical and graphic description of California’s sex offenders will be presented. The goal, at this



point, is to clarify some of the basic categories within which the state's sex offenders are grouped and to clearly make distinctions that are easily blurred by those not familiar with the field.

First a brief review of national data will be provided, followed by a focus on California numbers.

## **TOPICS IN NUMBER AND DISTRIBUTION OF OFFENDERS**

- National data on sex offenders
- California data on sex offenders
- Sex offenders under the authority of the criminal justice system
- Sex offenders in custody – in prisons, in jails, in hospitals
- Strengths in the availability of accessing numbers for sex offenders
- Gaps in the availability of accessing numbers of sex offenders
- Recommendations for future research

## **NATIONAL DATA ON SEX OFFENDERS**

At this time there are no official statistics gathered systematically by any national governmental agency regarding the total numbers of convicted sex offenders in each state. The individual Megan's Law websites that must be maintained by each of the states does provide some information, but there are no official up-to-date charts or tables available where one can view the numbers of sex offenders on a national level. There have been several efforts to fill this information gap.

- The National Center for Missing and Exploited Children completed a phone survey in July 2007 and created a map of the United States, the District of Columbia and five United States Territories (American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands). The analysis was intended to indicate the number of sex offenders per 100,000 total population in that state. The survey indicated that there were over 600,000 registered sex offenders nationally, with a ratio of 209 registered sex offenders per 100,000 population.
- A public website called FamilyWatchdog.us allows interested members of the public to view the number of sex offenders that are listed on each state's Megan's Law Public Registry. This information indicates that there are almost 500,000 registered sex offenders nationally.

However, neither of these websites actually succeeds in portraying an accurate picture of the number of convicted sex offenders nationally. The information presented can only be used as a very rough estimate. For the following reasons, these numbers may be underreporting the totals:

1. While California has been registering sex offenders for approximately 50 years, some states only began registering sex offenders about 10 years ago. Therefore, comparisons between states with regard to total numbers of registered sex offenders would be quite misleading and the inclusiveness of the registries varies substantially between states.
2. As is the case in California, some registered sex offenders only appear on databases available to law enforcement personnel and, in accord with their particular state's registration regulations, do not have their names posted on the public websites.
3. Not all states have lifetime registration as California requires. Some states limit registration by risk level and in some states there is a time-limit on the period during which registration is required (e.g. 20 years).

National data on sex offenders could be very helpful in placing the California situation in a larger context and providing benchmarks for comparison. A closer look, however, reveals that because of the many differences between states, much of the more readily available data is more likely to prove misleading than it is to be of help in understanding the California reality. There are definitely a number of more specific studies and reports regarding sex offenders from states and countries outside of California that can be most enlightening. Some of these are cited and reviewed elsewhere in this Report.

## **CALIFORNIA DATA ON SEX OFFENDERS**

### **Sex Offenders Who Are Required to Register Under PC 290:**

With a few scattered exceptions, the “sex offenders” that will be described in this Section and discussed throughout this Report are those individuals who are required to register as sex offenders in accord with California Penal Code 290 and following. They are often referred to as “290s” or “290 Registrants.” In the CASOMB enabling legislation, sex offender is similarly defined.

Understanding that “290 registrant” is the broadest category of identified sex offender, containing within its reach nearly all of those who might be of interest to those attending to this field, allows the present review of the “numbers” to unfold by distinguishing the various sub-categories of this largest class: “290s.”

The California data base that contains information on those individuals who are required to register as sex offenders under Penal Code 290 is managed and maintained by the California Department of Justice (DOJ) under the State Attorney General. Data is submitted to DOJ by the various law enforcement agencies throughout the state who receive such information directly from the registrants.

According to the California Attorney General's office, there are currently \*67,710 registered adult sex offenders living in California communities. The number of sex offenders who would be required to register had they not moved to another state/country

or been deported from California is 23,469. (These offenders are subject to registration in other states, and would have to register if they returned to California in the future.) . There are 2,879 sex offenders registered as transient (homeless), and therefore are not listed on any Megan’s Law website because they do not have a residence address. (Since sex offenders are placed on the Megan’s Law website with the street address being the controlling variable, not having an address eliminates them from the database.)

*\*Sometimes this number is added to the total actual number of California registrants to suggest that the state has over 100,000 registered sex offenders. This is not an accurate reflection of the reality. These individuals are not in California and are not required to register in California – unless they actually return to live in the state.*

## THE BASIC CATEGORIES OF CALIFORNIA SEX OFFENDERS

[Sex offender = anyone required to register under California Penal Code 290  
as a consequence of having been convicted of a designated sex crime]

	<b>SEX OFFENDERS UNDER THE AUTHORITY OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR) (GENERALLY INCLUDES ANYONE WHO RECEIVES A SENTENCE OF ONE YEAR OR LONGER)</b>	<b>SEX OFFENDERS UNDER THE AUTHORITY OF THE COUNTY CRIMINAL JUSTICE SYSTEM (GENERALLY ANYONE WHO RECEIVES A SENTENCE OF LESS THAN ONE YEAR IN CUSTODY)</b>
<b><u>SEX OFFENDERS IN CUSTODY</u></b>	<b><u>IN PRISON</u></b>  About <b>23,200</b> sex offenders are in custody in CDCR prisons at any point	<b><u>IN JAIL</u></b>  An <b>unknown number</b> of “sex offenders” are in county jails at any point. (Some of them have not been in custody long enough after a conviction to be considered among those required to register.)
<b><u>SEX OFFENDERS LIVING IN CALIFORNIA COMMUNITIES UNDER DIRECT AUTHORITY OF CRIMINAL JUSTICE SYSTEM (PAROLE OR PROBATION)</u></b>	<b><u>ON PAROLE</u></b>  At any point there are approximately <u>6,700</u> individual sex offenders on active state parole (CDCR)	<b><u>ON PROBATION</u></b>  At any point there are approximately <u>7000</u> individual sex offenders under the jurisdiction of one of California’s 58 county Probation Departments

<b><u>SEX OFFENDERS LIVING IN THE COMMUNITY AFTER THEIR PERIOD OF CRIMINAL JUSTICE SYSTEM SUPERVISION IS OVER (I.E. NO LONGER ON STATE PAROLE OR COUNTY PROBATION)</u></b>	Based on information maintained by the California Department of Justice there are about 50,000 registered sex offenders living in California communities and no longer under the direct authority of the criminal justice system (state parole or county probation)  NOTE: None of them are required to be or can be required to comply with any special regulations with the exception of 290 Registration.
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Additional noteworthy categories of sex offenders: (list is not exhaustive)

- Sex offenders involved with the Civil Commitment Program (Sexually Violent Predator - SVP)
- Sex offenders involved with the state mental health hospitals (other than SVP) and either in a hospital or in the community under a Conditional Release Program (CONREP)
- Sex offenders on Federal probation

## CALIFORNIA SEX OFFENDERS BY COUNTY - CASOMB

<b>County</b>	<b>Registered PC 290</b>	<b>County Probation</b>	<b>CDCR Parole</b>	<b>High Risk Sex Offenders (HRSO) [Parolees]</b>	<b>Currently in CDCR Institutions and Required to Register</b>
Alameda	2,474	358	319	108	699
Alpine	0	0	0	0	1
Amador	63	0	16	1	26
Butte	691	83	115	16	249
Calaveras	96	10	10	2	24
Colusa	46	0	5	0	9
Contra Costa	1,397	69	188	39	361
Del Norte	144	16	20	3	52
El Dorado	326	0	37	6	106
Fresno	2,309	421	393	192	796
Glenn	75	48	17	3	22
Humboldt	431	46	75	22	128
Imperial	221	32	20	1	29
Inyo	48	0	9	2	16
Kern	2,185	155	394	136	692
Kings	352	0	67	6	204
Lake	258	19	55	5	109
Lassen	80	13	22	1	26
Los Angeles	15,449	1,066	3,265	579	5933
Madera	377	75	53	9	103
Marin	156	Not Reported	30	0	78
Mariposa	60	14	8	0	21
Mendocino	259	28	40	4	58
Merced	701	Not Reported	124	24	232
Modoc	39	5	3	1	24
Mono	13	Not Reported	3	0	5
Monterey	678	230	109	32	286
Napa	185	51	42	4	91
Nevada	172	43	14	3	40
Orange	2,958	451	619	85	1021
Placer	535	Not Reported	80	22	146
Plumas	41	Not Reported	10	0	10
Riverside	3,265	Not Reported	633	237	1374
Sacramento	3,625	636	428	166	1385
San Benito	94	Not Reported	15	11	24
San Bernardino	3,748	597	834	178	1415
San Diego	3,923	663	720	217	1720
San Francisco	1,231	Not Reported	126	36	223
San Joaquin	1,765	298	227	134	483
San Luis Obispo	448	157	65	29	124
San Mateo	808	66	205	26	372



Santa Barbara	724	147	141	0	241
Santa Clara	3,488	480	766	208	1439
Santa Cruz	408	100	63	18	132
Shasta	734	77	141	93	320
Sierra	0	5	3	0	3
Siskiyou	174	17	29	7	67
Solano	849	165	125	57	292
Sonoma	794	53	118	12	251
Stanislaus	1,313	111	121	38	278
Sutter	236	35	53	2	66
Tehama	266	40	51	19	112
Trinity	65	19	12	2	16
Tulare	1,030	85	193	29	412
Tuolumne	149	23	23	2	45
Ventura	1,061	Not Reported	183	51	380
Yolo	1,112	136	88	10	145
Yuba	271	14	30	11	112

The table above shows a breakdown of some of the major categories of sex offenders by County. CDCR numbers are calculated by the county of commitment and not necessarily the county of residence.

## **SEX OFFENDERS UNDER THE DIRECT AUTHORITY OF THE CRIMINAL JUSTICE SYSTEM**

Approximately 70 - 80% of all sex offenders living in the community are not under the direct authority of the criminal justice system and therefore under no formal supervision. Selected individuals may be kept under some level of observation by local law enforcement, particularly with regard to registration residency information. The other 25% are under the authority of either state parole or county probation.


### **Sex Offenders Under the Authority of State Parole**

There were 10,425 registered sex offenders on state parole with the Division of Adult Parole Operation, with 6,738 total sex offenders in the community as of the week of January 21, 2008. (The difference in these numbers is due to placement out of state, deportation, or paroles in some stage of the revocation process.)

Of registered sex offenders in the community on parole, 2,393 were released prior to November 8, 2006, and are therefore not subject to the provisions of Proposition 83. The other 4,345 are subject to the provisions of Proposition 83. Going forward, of course, an increasing proportion of parolees will be subject to Proposition 83, either because they will be initially released on parole or because they have been returned to custody and upon re-release they come under the timeline implemented. At some point, presumably within three years of the date Proposition 83 became law, there will be almost no remaining parolees who had been released prior to the enactment date – since parole ordinarily continues for a three-year period.

CDCR has, over time, made distinctions between the sex offenders on parole in an effort to devote more effort to the careful supervision of those who are deemed to be at higher





risk to re-offend. Based in part upon the Recommendations of the Governor's High Risk Sex Offender Task Force – Phase One, CDCR now makes use of a risk assessment instrument and designates those sex offenders who score above a certain cut-off as “High Risk Sex Offenders” (HRSOs). There are currently approximately 3,011 paroled sex offenders designated as High Risk Sex Offenders (HRSO) based on elevated risk assessment scores. There are approximately 2,337 High Risk Sex Offenders (HRSO) on active GPS monitoring. In addition, about 1,002 non-HRSO sex offender parolees on passive GPS monitoring as of January 2008.

### **Sex Offenders Under the Authority of County Probation**

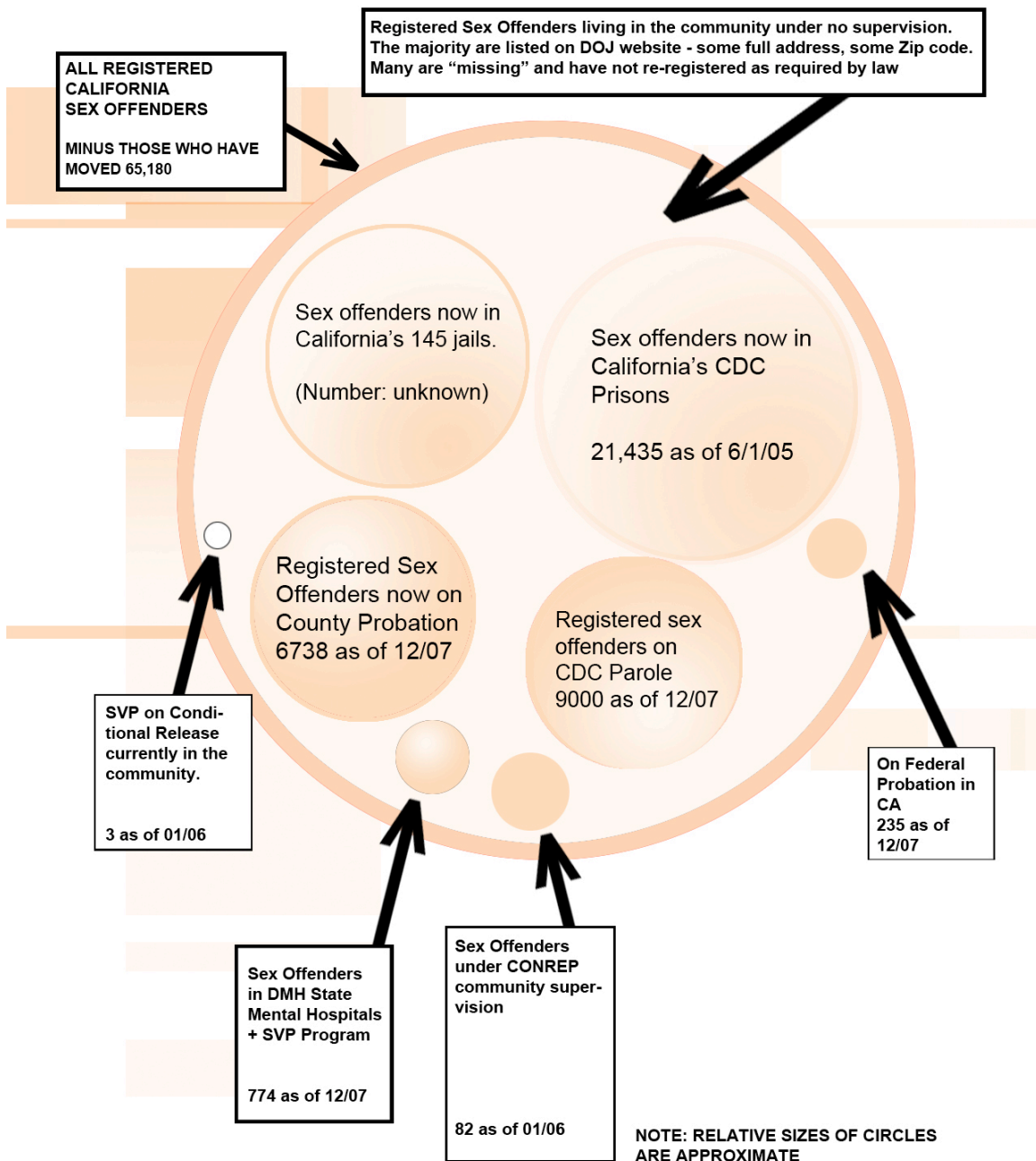
With 50 of 58 counties reporting, the numbers of sex offenders under county probation authority was 6,738. It is estimated that the total number would be over 7000 if all 58 counties had reported.

### **Sex Offenders Under the Authority of Some Other System**

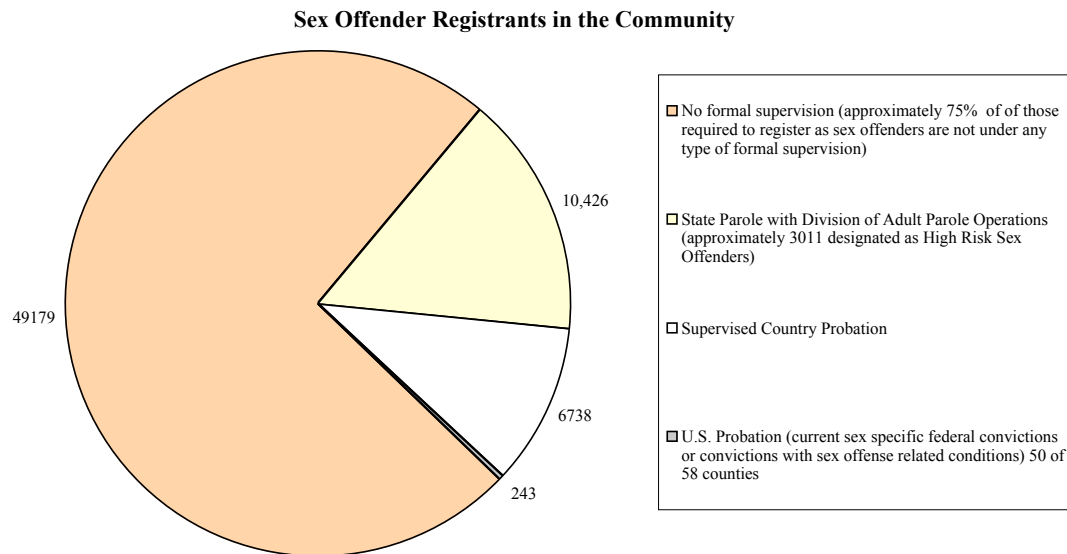
Although the numbers are relatively small in comparison with the major categories of sex offenders under supervision – state parole and county probation – several other categories of sex offenders living in California communities under some direct supervising authority should be noted. There are 243 registered sex offenders on U.S. probation under the authority of the Federal Courts as a consequence of specific federal sex offense convictions or convictions with sex offense related conditions.

The system of Conditional Release Programs (CONREP) operating in conjunction with the California Department of Mental Health's state mental hospitals also works with certain sex offenders whose mental health has improved sufficiently through services in the hospital that they are able to be “conditionally released” to live in the community. Some of these individuals were involved in some form of illegal sexual action but were deemed unfit for criminal trial as a result of their mental status. The number of sex offenders under CONREP community supervision as of January, 2006 was 82.

## WHERE ARE CALIFORNIA'S ADULT SEX OFFENDERS?



**Chart 2-1.**



## **SEX OFFENDERS IN CUSTODY – IN PRISONS, IN JAILS, IN HOSPITALS**

### **In Prisons**


There are presently just under 22,500 adult sex offenders being incarcerated in prison by CDCR. Although some are placed in special units for their own protection, most are distributed throughout the state's 33 adult prisons.

### **In Jails**

It is not known - and for a number of reasons may not be possible to determine – how many sex offenders are incarcerated in the 145 county jails in California.

Jail populations are extremely fluid with the average length of stay being only a few days. Generally only those sentenced to one year of custody time or less are kept in county jails. Those with longer sentences are sent to state prison.

Of course many of those in jail are there awaiting trial or are there only briefly after an arrest before they are released on bail. Only those convicted of a sex offense are considered “sex offenders” (290 Registrants) – but some unknown number of those awaiting trial are likely to, in fact, be registrants because of a prior sex offense.



Those serving time in county jail for a sex offense which includes a requirement to register, are not actually counted as registered sex offenders and tracked by the California Department of Justice until they have been in custody for a period of 90 days.

For these and other reasons, the most that can be said at this point is that the number of sex offenders in California's 145 jails fluctuates from day to day and is unknown at this time. It may be difficult or impossible to ever determine the exact number.

### **In Hospitals or Other Custody Settings**

There are currently 774 in the custody of the California to the Department of Mental Health at either Coalinga State Hospital or Atascadero State Hospital as a consequence of being in some phase of the "Civil Commitment" process leading to designation as a Sexually Violent Predator.

There are eight male patients at Coalinga State Hospital who are admitted as "mentally ill" persons but who also happen to be registered sex offenders.

In addition, there are an unknown number of sex offenders in Federal Prison system facilities in California. There are also sex offenders in a military prison.

### **Summary of Strengths in Numbers and Distribution of Sex Offenders**

- The California Department of Justice (DOJ), responsible for maintaining the information for sex offender registration and the Megan's Law website, has working systems in place and has plans to update and improve those systems over the next few years.
- The California Department of Corrections and Rehabilitation (CDCR) gathers and maintains key information on the sex offenders under its authority and is able to generate various types of reports based upon this information.
- CDCR appears to be reinvigorating its research department and may be expected to increase its ability to provide helpful analyses of sex offender information.
- The California Department of Mental Health (DMH) regularly makes available on its website a great deal of information about the numbers and operations of the Civil Commitment Program (SVP).
- At various times, valuable individual Reports on issues related to the number and distribution of sex offenders has been generated by the California Research Bureau, the Legislative Analyst's Office, the University of California at Irvine and others.

## Summary of Gaps in Numbers and Distribution of Sex Offenders

- No entity in California – whether state agency, academic institution or other – has assumed or been appointed to provide leadership responsibility for conducting key research on topics related to the management of the state’s sex offenders. California has consistently been a “consumer” of policy research and other research materials produced elsewhere, frequently by much smaller states and agencies.
- CDCR does not have a system of electronic record keeping (case files) for those under its authority and so is unable to provide much flexibility in assembling new sets of data or retrieving information from older records.
- Data collection regarding sex offenders on county probation varies considerably from county to county. Consistency is needed to allow the information to be gathered and analyzed at a statewide level. Some counties have been unable to provide data needed even for the basic overview provided in this section of the Report.
- As is evident from the material provided in this section of the Report, much information about California sex offenders is “approximate” and requires rather complicated explanations. In part this is because the systems that have evolved are quite complex in order to deal with the many necessary exceptions and contingencies. Better defined baseline categories and measurements need to be developed to allow maximum simplicity while acknowledging the unavoidable complexity of the real world.
- Due to the absence of good baseline data on California sex offenders, it is extremely challenging to identify and track important changes over time. Issues such as sentencing requirements, registration requirements, community notification requirements, residency requirements and similar policy changes that have been enacted and implemented, are difficult if not impossible to effectively evaluate.
- The “metrics” used to classify sex offenders, sex offenses, recidivism and similar important dimensions are not consistent across systems, making it hard to reach and state clear conclusions.
- Despite the often-exemplary efforts of various agency spokespersons, California has no authoritative source of data about sex offender matters that is available to the media and to other interested parties. As a consequence, at times there appears to be confusion and, in some cases, misinformation when it comes to informing the public about the realities of sex offender management.
- There is no good source of statewide data tracking rates of reports, arrests, charges, prosecutions, outcomes and dispositions related to sex offenses. It is, therefore, nearly impossible to ask and answer such questions as whether increased sanctions in California decrease offending, decrease reporting, decrease satisfactory plea bargains or have other unintended consequences.

## Recommendations for Future Research

- The materials prepared for this chapter should serve as a starting point for an evolving process of:
  1. Reconfirming the accuracy of all data on an ongoing basis
  2. Determining methods of filling in missing data and doing so
  3. Finding more informative and user-friendly ways of presenting the data
  4. Developing improved creative graphic representations of the data
  5. Applying statistical analysis methods to the data to improve usefulness
  6. Identifying areas where more information is needed
  7. Tailoring the growing body of information to respond to the questions of CASOMB and of others – including policy makers.

Important questions about costs and cost effectiveness of California policies and practices cannot be asked and answered without first building a solid descriptive information base of data about how the various systems related to sex offender management actually function and dynamically interact in the real world. The needed information base needs to be built and future use in determining cost effectiveness should be kept in mind at every step.

## Proposition 83 and the Number and Distribution of Sex Offenders

### Changes made by Proposition 83

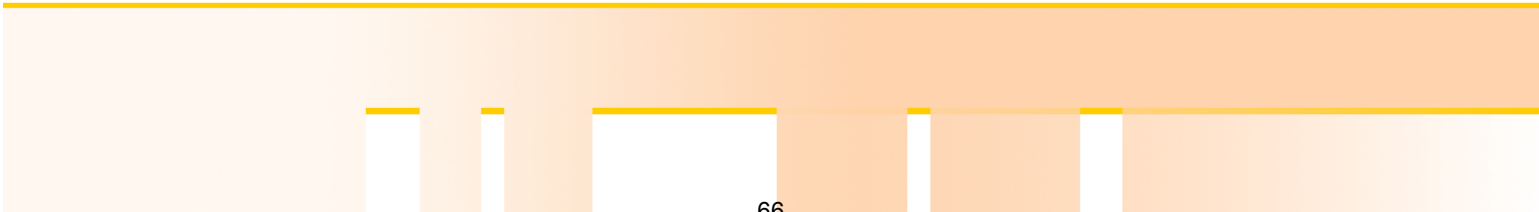
Proposition 83 amended Section 6600 (a)(1) of California's Welfare and Institutions Code to redefine the term "Sexually Violent Predator" as a person who has been convicted of a sexually violent offense against **one** or more victims..." this language reduced the number of victims required to qualify as a SVP down from two, and as a result greatly increased the number of offenders being screened by the Department of Mental Health. The costs associated with screening individuals who may potentially be classified as Sexually Violent Predators has risen to \$27 million in 07-08. This is an increase of approximately \$24 million.

### Areas of Proposition 83 that have demonstrated implementation challenges or require clarification

While it is agreed that enforcement of the initiative is not retroactive, there is still considerable disagreement about which offenders are actually subject to the provisions of Proposition 83. Currently, there are at least four different positions as to which offenders are required to comply with the elements of the initiative:

- It applies to any offender who **commits** a specified sex crime after the effective date of the initiative.
- It applies to any offender who is **convicted** of a specified sex offense after the effective date of the initiative (a position supported by many local District Attorneys).
- It applies to any **sex offender who is paroled** after the effective date of the initiative, even if the crime for which he or she is on parole for is not a sex crime specified by Proposition 83 (the current policy of CDCR).
- It applies to **any registered sex offender who moves** into a 2,000 residency exclusion zone after the effective date of the initiative (the current position of the California Attorney General).

A concise determination of which offenders are impacted by Proposition 83 will reduce confusion, promote a consistent application of the statute and give clear enforcement guidance to local public safety officials. The CASOMB was informed that many local governments and jurisdictions in California are delaying implementation of all, or some, elements of Proposition 83 until this issue can be resolved.





## SEX OFFENDER RECIDIVISM

3

## INTRODUCTION

Solid information about the recidivism of sex offenders is one of the key building blocks for good policy and effective practice in sex offender management. If it were not for the concern that an identified sex offender may offend again in the future and create another victim, the questions about how to best manage sex offenders living in California communities would not be of such intense interest. Knowing how likely it is that an individual sex offender or a certain type of sex offender might re-offend can drive many decisions. Similarly, knowing what interventions actually reduce the chances that a sex offender will re-offend is also extremely important.

There is a growing body of solid knowledge about sex offender recidivism. More knowledge is certainly needed, especially in California. But what is known about the rate of recidivism for sex offenders appears to be frequently misunderstood when it comes to developing policies for successful sex offender management. Many of the preconceived notions surrounding sexual abuse appear to be based on myths and misconceptions rather than empirical evidence (CSOM, 2000). Sex offenders are often reputed to be incorrigible and laws are, at times, justified with statements that the majority of sexual offenders will go on to re-offend (Fortney et al., 2007). In a recent study, 200 citizens who were polled believed that sex offender recidivism rates for new sex offenses, are approximately 75% (Fortney et al., 2007). Statements that sex offenders cannot be “cured” – a concept generally accepted by experts in this field – have often been misinterpreted to mean that they will inevitably re-offend.

**In fact, the majority of sex offenders do not re-offend sexually over time** (Harris & Hanson, 2004). Additionally, research studies over the past two decades have consistently indicated that recidivism rates for sex offenders are, in reality, lower than the re-offense rates for most other types of offenders. In a longitudinal study that followed 4,742 known sex offenders over a period of 15 years, 24% were charged with or convicted of, a new sexual offense (Harris & Hanson, 2004). The U.S. Department of Justice found that 5% of 9,691 sex offenders released from prisons in 1994 were re-arrested for new sex crimes within three years. Recent research data from California Department of Corrections and Rehabilitation indicate that fewer than 4% of the convicted sex offenders released to parole in 2003 were returned for a new sex offense over the course of a three year period of living in the community under parole supervision (CDCR Research, 2007). [See further explanation below.]

The following sections of this Report will summarize what is currently known regarding the recidivism rates of sexual offenders. In PART TWO, information from the scientific literature in sex offender recidivism will be reviewed, recidivism will be defined, and available information regarding recidivism rates in California as well as in other states will be presented. In PART THREE, strengths in the information available regarding California sex offenders will be highlighted as will the gaps in recidivism information for California sex offenders. Finally, some suggestions for future research related to the recidivism of California sex offenders will be introduced.

## TOPICS IN RECIDIVISM

In this section some foundational information about sex offender recidivism will be offered as an introduction to the presentation of some data on recidivism in California and elsewhere. The section is organized as follows:

- Overview of Sex Offender Recidivism
- Definition of Recidivism
- Measuring Recidivism Rates
- Information about Recidivism Rates of California Sex Offenders
- Review of Recidivism Research from Sources beyond California

## OVERVIEW OF SEX OFFENDER RECIDIVISM

Ever since California enacted the career criminal statute in 1947 (Walters, 1990), recidivism has become a powerful term triggering passionate public reaction against those convicted criminal offenders who have had multiple contacts with the criminal justice system. While any offender's subsequent re-offending is of public safety concern, the prevention of repeated sex violence against women and children is particularly important in crime control and public safety, especially given the irrefutably devastating consequences that these sexual offenses cause victims and their families and the enormous public fear they generate in the community. Various changes to the California Penal Code in recent years have focused on increasing the certainty and the length of incarceration for all offenders, including sex offenders. The growth of California's prison population is no secret. It remains true, however, that the vast majority of sex offenders do and will continue to return to the community after such extended prison sentences. It is the need to respond to the danger – real or presumed – that these individuals might pose to potential future victims which makes information about recidivism rates so important.

### SEX OFFENDERS IN THE CRIMINAL JUSTICE SYSTEM

Nationally, the number of incarcerated sex offenders has grown more than 7% per year since 1980 (CSOM, 2007). Today, nearly 10% of state prison populations nationwide are incarcerated for committing a sex offense (Greenfield, 1997). Although determinate and mandatory sentencing has significantly extended the length of incarceration for the overall prison population, the inevitable reality is that most incarcerated sex offenders will eventually be released back to the community either under some form of parole or community based correctional supervision or discharged as a free person. The Bureau of Justice Statistics of (US DOJ) reports that on any given day in 1994 there were approximately 234,000 sex offenders under the care, custody, or control of correctional agencies; nearly 60% of sex offenders who are under the direct authority of some branch of the criminal justice system are under conditional supervision in the community (The Bureau of Justice Statistics, 2007).

## DEFINITION OF RECIDIVISM

***Recidivism Risk*** is conceptually defined as the strength of an individual's tendency to relapse into a previous condition or mode of behavior (e.g. criminal or antisocial

behavior) after the person has experienced an official intervention such as imprisonment, rehabilitative treatment or correctional supervision. Any offender who re-offends after the initial official intervention would be conceptually considered to be a recidivist. This general definition of recidivism applies equally to sex offenders, although a number of aspects of sex offender recidivism require further elucidation.

## MEASURING RECIDIVISM RATES

The question about sex offender recidivism can, at first, seem like “a simple question” – as it is phrased in an important paper *Sex Offender Recidivism: A Simple Question* (Harris and Hanson, 2004). As the title suggests, the question of sex offender recidivism is not as simple as it might appear. The authors maintain that a number of different dimensions of recidivism must be considered in order to understand any statistics about sex offender recidivism. A summary of their lucid explanation follows.

**The first dimension** that must be considered is **what sort of event constitutes “recidivism.”** The statistics will look quite different depending upon which of the following is counted as recidivism:

- A reconviction for a new sex offense
- A conviction or reconviction for a violent (non-sex) offense
- A conviction for a new (non-violent, non-sex) crime
- A re-arrest for a new alleged offense (of some type)
- A report to authorities (such as child protective services) that does not lead to an arrest
- A revocation of parole or probation for some violation (serious or not-so-serious) of the conditions imposed by the supervising authority (anything from prohibited contact with a child to prohibited use of alcohol to failing to keep an appointment)
- Being questioned by the police for some reason
- Additional criteria for recidivism that have been used in various research studies

Obviously, the broader the definition, the greater the chance that one of the events will occur and the larger the recidivism rate will appear to be. Which is the best measure? Researchers have yet to agree and so the reports of recidivism that appear in research studies may differ considerably, leading to possible confusion. (In California, for example, more than 2/3 of all parolees are returned to custody at some point before they successfully complete parole. In the majority of cases the infraction is not a new crime but rather a violation of the conditions of parole.)

**The second dimension** that must be considered is **how long a time period is studied** – the “follow-up” period. Obviously a study that tracks re-offenses over a period of one year would show lower recidivism rates than would a study that tracks over a ten year period. Any study of sex offender recidivism or any citation of recidivism statistics must be clear about how long a period was used in the study.

When considering time periods, it is important to distinguish the total (cumulative) number of offenses over all of the years of the study – a number which will continue to rise – from the number of new offenses each year – a number which regularly decreases since there are ordinarily more re-offenses during the first year than during the second year, and so on.

**A third dimension** that must be noted has to do with **what type of sex offender is included** in the study. Not all sex offenders are alike. They differ in important ways along a number of dimensions. For example, research has shown a much greater sexual recidivism rate among true pedophiles who select male victims than among incest offenders. Child molesters appear somewhat less likely to “age out” of their offending behavior than do rapists. Rapists, on the other hand, are more likely to commit some other type of violent crime.

And so, as Hanson and Harris put it:

*The....simple question is not so simple. Rather than asking "how often do sexual offenders re-offend"; the informed reader would inquire about the recidivism rates of particular types of sexual offenders (e.g., incest offenders versus rapists for example), over a specific time period (e.g., 10 years) using a particular definition of recidivism (e.g., new convictions for a sexual offence). Failure to specify these distinctions can lead to wildly different estimates of the rate of sexual recidivism.*

Some statistics on recidivism rates may have created a public impression that most “recidivating” sex offenders were returned to prison for another sex offense. But this has not been proven to be the case when researchers carefully examine the types of new offenses or infractions sex offenders committed during their parole release. Sex offenders who commit a new crime are more likely to commit some other type of crime than a sex offense. It is true that sex offenders who commit another crime are more likely to commit a sex offense than are any other types of offenders. But sex offenders are, overall, considerably less likely to commit any new crime of any type, including sex offenses than are other offenders.

When comparing the re-offense rates of sex offenders with the re-offense rates of non-sex offenders, the public may assume an astronomically high recidivism rate for sex offenders that, in reality, cannot be found in empirical research and official statistics. In a large study of more than 38,000 prisoners of all types who were released from U.S. prisons in 1994, Meithei, Olson, and Mitchell (2006) found that:

- 26 % of sex offenders were rearrested for another sex crime,
- 33 % of violent offenders committed another violent crime,
- 56 % of property offenders committed another property offense,
- 61 % of public order offenders committed another public order offense

These research findings caution the public and policy makers against pursuing an overwhelming focus of crime control measures on sex offenders that may overlook the risk of serious offenses committed by other offenders.

Nevertheless it remains true that sex crimes can have such a devastating impact on their victims that even “comparatively low” recidivism rates are still unacceptably high and efforts to reduce them even further are deserving of considerable investment of efforts, resources and funding.

## INFORMATION ABOUT RECIDIVISM RATES OF CALIFORNIA SEX OFFENDERS

There are two major categories of sex offenders in California whose recidivism rates are of greatest interest for this Report. They are depicted in the table below.

**Table 3-1. Recidivism Rates for Adult Male California Sex Offenders**

	STATE PRISON TERM FOLLOWED BY STATE PAROLE	COUNTY JAIL TERM FOLLOWED BY COUNTY PROBATION
State prison or county jail inmates who do not have an opportunity to sexually re-offend during their period of incarceration.	Individuals who were convicted of a sex offense and who were sentenced to the Department of Corrections and Rehabilitation for a term of one year or more.	Individuals who were convicted of a sex offense and who were sent to county jail to serve a sentence of one year or less or who served no post-conviction jail time but were released on county probation
<p>Individuals living in the community under the jurisdiction of the criminal justice system on state parole or on county probation.</p> <p>These individuals <b><u>are able to recidivate</u></b> by committing a new sex offense (and may also be returned to custody for any of a number of reasons).</p> <p>Because they remain under the authority of the criminal justice system, their recidivism rates are of great interest to those responsible for their management.</p>	<p><b>CATEGORY ONE</b></p> <p>Sex offenders on state parole under the authority of the California Department of Corrections and Rehabilitation – Division of Adult Parole Operations</p> <p>(The period of parole is usually three years but for some sex offenders it is now longer – sometimes up to ten years.)</p>	<p><b>CATEGORY TWO</b></p> <p>Sex offenders on county probation after, in most cases, serving a relatively brief sentence (less than one year) in county jail.</p> <p>(The period of probation is three or five years [differs by county] and is sometimes longer and may be extended by a court.)</p>

## **THE MISSING GROUP – CATEGORY FOUR**

Sometimes there appears to be an assumption that most new sex offenses are committed by previously identified sex offenders from one of the three “CATEGORIES” distinguished in TABLE 3-1. Preventing further sex offenses is seen as largely a function as stopping these known offenders from committing another offense.

The premise for such an approach is not a correct one. In fact, approximately 90% of new convictions for sex offenses involve an individual who had no prior sex offense conviction history. This group of previously unidentified individuals – “CATEGORY FOUR” – deserves more attention by those committed to preventing sexual assault.

It follows that decreasing the number of sexual victimizations can only succeed if a larger perspective is entertained – one which sees sexual assault as a “public health problem” with deep roots in societal values and other pervasive influences. Although the intervention of the criminal justice system and ancillary entities is an essential component of preventing sexual assault, the problem of sexual assault and its solutions extend considerably beyond what the criminal justice system can be expected to accomplish alone.

### **What is known about the recidivism of these three categories of sex offenders?**

- Some information is available about the recidivism rates of sex offenders on parole in California (CATEGORY ONE). This information will be reviewed below.
- Recidivism statistics regarding sex offenders on county probation in California (CATEGORY TWO) are not available at this time.
- Recidivism information about previously convicted sex offenders who are required to register but who are no longer on parole or probation (CATEGORY THREE) is not available at this time.

### **What is known about the recidivism rates of sex offenders on parole?**

Some recidivism statistics were made available by CDCR regarding sex offenders who were incarcerated in state prisons and released to the Division of Adult Parole Operations (DAPO). The following information (TABLE 3-1) was provided by CDCR’s Office of Research.



**Table 3-2. Recidivism Rates of Male Sex Offenders Paroled from CDCR in 2003 with 3 Year Follow-Up (Based on return to CDCR custody)**

**RECIDIVISM DATA FOR THE 4,287 SEX OFFENDERS  
RELEASED FROM CDCR INSTITUTIONS IN 2003**

Categories of Re-Admission to Prison	Within 1 Year	Within 2 Years	Within 3 Years
<b>1. Returned with a new Sex Offense</b>	2.43% - total % returned to prison with a new sex offense by end of first year in community on parole  104 new sex offenses during first year in community on parole  Cumulative total sex offenses over one year in community on parole: 104	3.27% - <u>cumulative</u> total % returned to prison with a new sex offense by end of 2 <sup>nd</sup> year in community on parole  0.84% - total % returned to prison with a new sex offense during 2 <sup>nd</sup> year in community on parole  36 new sex offenses during 2nd year in community on parole  Cumulative total sex offenses over two years in community on parole: 140	3.55% - <u>cumulative</u> total % returned to prison with a new sex offense by end of 3 <sup>rd</sup> year in community on parole  0.28% - total % returned to prison with a new sex offense during 3rd year in community on parole  12 sex offenses during 3 <sup>rd</sup> year in community on parole  Cumulative total sex offenses over three years in community on parole: 152
<b>2. Returned with a New Non-Sex Offense (felony)</b>	2.71% 116	4.13% cumulative 1.42% 2 <sup>nd</sup> year  61 2 <sup>nd</sup> year 177 total	4.57% cumulative 0.44% 3 <sup>rd</sup> year  19 3 <sup>rd</sup> year 196 total
<b>3. Returned to Prison for Parole Violation (RTC + Pend. Rev.)<sup>1</sup></b>	25.73%  1,103 violations	32.63% cumulative 6.90% 2 <sup>nd</sup> year  296 2 <sup>nd</sup> year 1,399 total	35.48% cumulative 2.85% 3 <sup>rd</sup> year  122 3 <sup>rd</sup> year 1,521 total
<b>Total Number of Parolees Returned<sup>2</sup> to Prison for any reason and the Annual Recidivism Rate (%)</b>	30.86%  1,323	40.03% 9.17% 2 <sup>nd</sup> year  393 2 <sup>nd</sup> year 1,716 total	43.60% 3.57% 3 <sup>rd</sup> year  153 3 <sup>rd</sup> year 1,869 total

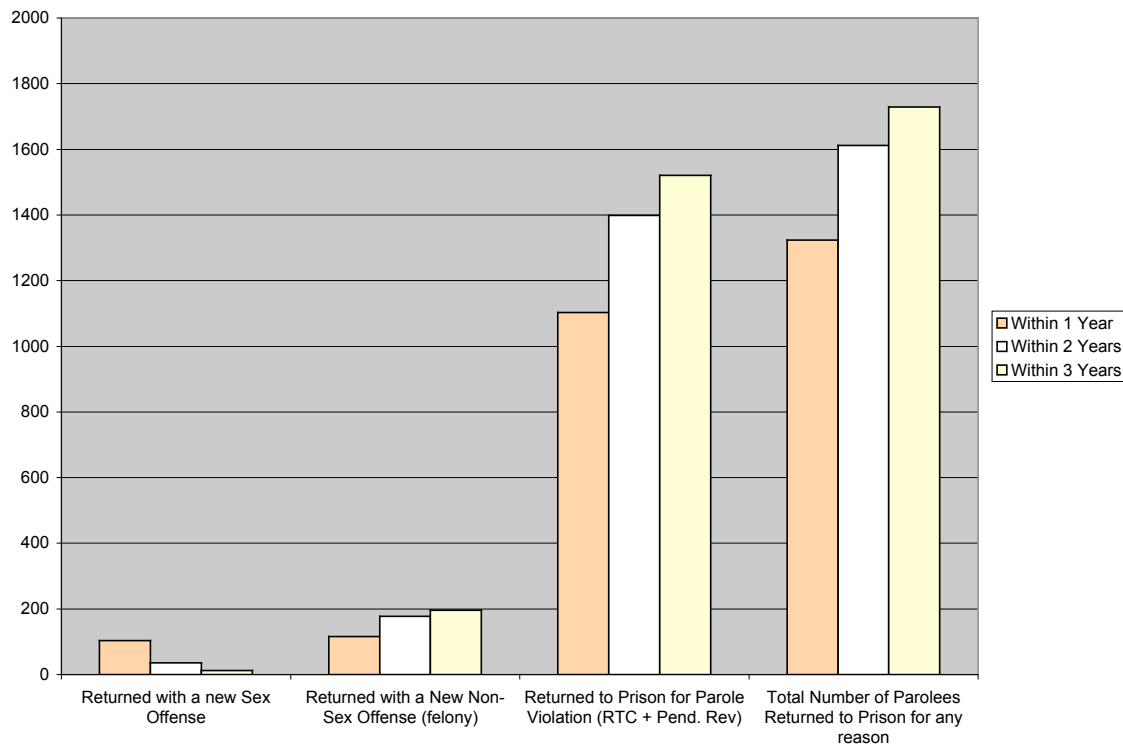
Source: W:\Research\Data Requests\Recidivism 3yrs request\recid retsxooffs newcy2003 3yr.xls\bv

<sup>1</sup> Includes those paroled as a New Admission (NA), Parole Violator Returned with a New Term (PV\_WNT) Return to Custody (RTC), and Pending Revocation (PEND REV) last parole move following return to prison.

<sup>2</sup> The percentages in this row are calculated based on the total number of sex offenders (N=4,287) released on parole in 2003.



**Chart 3-1. Recidivism Rates Over Three Years**



**DISCUSSION:** Table 3-2 shows that most sex offenders are returned to custody for “Technical Violations” of their Special Conditions of parole. The cumulative amount of recidivism slowly climbs each year, although fewer offenders are committing new offenses and/or violations as time passes and, presumably, as they are successful in reintegrating into society and developing new life patterns. There are only a small percentage of sex offenders who commit a new sex offense over a three-year period. Only 3.55% had committed new sex offenses by the time the conclusion of their three year parole period had been reached.

Other considerations and questions can be raised in interpreting the findings presented in this Table. There may have been sex offenses that never were reported to authorities. It is possible that some of those returned to prison for violating their parole conditions may have been on the brink of committing a new sex offense. Since over one third of the parolees were returned to custody, they no longer remained at risk in the community and so could not have committed a sex offense for at least a portion of the time period that was studied, thus lowering the total number actually at risk of re-offending.

**Nevertheless, the data from this California sample makes it clear that the risk of sexual recidivism is much lower than seems to be commonly assumed.**

It hardly needs to be stated that 152 new known sex offenses represent a huge amount of preventable pain and tragedy in the lives of those who have been victimized and for their

families. Efforts to reduce these repeat offenses by better management of paroled sex offenders using all available tools must continue and improve.

Beyond the important data presented and discussed above, a search effort has revealed very few published studies of sex offender recidivism for California. As noted previously, county Probation Department statistics are not available at this time and only one previous study could be found that addressed the recidivism of probationers. In that study, the Los Angeles County Sheriff's Department, the state and federal Departments of Justice, Los Angeles County Probation, CDCR, the federal department of Housing and Urban Development, and the Los Angeles Police Department established a task force which tracked 18,000 sex offenders. One year later, reports indicated that 83 offenders had been arrested, making the recidivism rate 0.5% (Long Beach Press Telegram).

No discussion of California sex offender recidivism would be complete without noting the efforts of the Sex Offender Treatment and Evaluation Program (SOTEP). This was a well-designed study which followed 704 State Prison (CDC) inmate sex offenders in an 8-year follow up study. Some of these offenders had received treatment, while a "matched" group of others had not. Recidivism rates for new sex offenses averaged between 19 and 22% for the groups. Among the many issues raised by this data is to what extent the rate of recidivism increases after the period of parole supervision ends, as was the case for many of the subjects in this study (Marques, Wiederanders, Day, Nelson, and van Ommeren, 2005).

#### **WHY DO SEX OFFENDERS ON PAROLE GET RETURNED TO CUSTODY?**

The CDCR prison reentry data show that most of the sex offenders who failed on parole were returned to prison for "technical violations" rather than new sexual offenses. Currently, sex offender parolees in California are potentially subject to as many as 97 "Special Conditions" – many of them concerned with restricting behaviors that are seen as precursors to re-offending, such as using alcohol, dating women who have young children, possessing pornography and the like (see Table 5-2). The more restrictions placed on paroled sex offenders, the higher the likelihood that they will commit a technical violation of those conditions, be returned to custody and thus, demonstrate higher "recidivism" rates. In the service of community safety, Parole Agents supervising sex offenders generally have little tolerance for violations of these Special Conditions. The parole system has been criticized, however, for not creating any effective alternative sanctions or interventions short of returning the parolee to prison when a "technical violation" of a parole condition has occurred. For these reasons, understanding the real meaning of parole failures ("recidivism") for sex offenders can be challenging to those not familiar with the CDCR parole system.

**Table 3-3. Categories of Possible Parole Conditions for California Parolees**

<b>Categories of Tailored “Special Conditions” Imposed on Each Sex Offender on Parole</b>	<b>Number of Specific Conditions Related to Each Category</b>
1. Substance Abuse	5 items
2. Treatment	5 items
3. Contact with Minors	4 items
4. Relationship	5 items
5. Victim(s)	3 items
6. Association	4 items
7. Travel	12 items
8. Employment	4 items
9. Residence	9 items
10. Possession	17 items
11. Gang	6 items
12. Domestic Violence	4 items
13. Electronic in Home Detention (EIHD)	4 items
14. Global Positioning Systems (GPS)	5 items
15. Other	11 items
<b>Total</b>	<b>97 items</b>

Source: CDC 1515-Addendum (Rev 6/06): Special Conditions of Parole. Division of Adult Parole Operations, CDCR.

## **REVIEW OF RECIDIVISM RESEARCH FROM SOURCES BEYOND CALIFORNIA**

California is far from being in the forefront with regard to conducting research on sex offender recidivism. A number of other states and jurisdictions have conducted studies on the recidivism of sex offenders for whom they were able to collect data. A few samples of the larger or more recent or otherwise notable studies are briefly reviewed here. It may be instructive to compare not only the findings but also the methodology to the work that has been done – or might be desired - in California.

Much of the work on sex offender recidivism is no longer intended simply to establish baseline figures for re-offending. Such work is seen as preliminary to conducting further evaluations of the interventions that serve to actually reduce recidivism, such as specialized treatment, polygraph, GPS tracking, residency restrictions and others.

**Arizona:** A total of 3,205 sex offenders were released from the Arizona prison system over the 15-year period Fiscal Year (FY) 1984 – Fiscal Year (FY) 1998, for an average of 214 per year. Average yearly sex offender releases increased from 152 over the period FY 1984-FY 1988, to 217 over the period FY 1989-FY 1993, to 272 over the period FY 1994-FY 1998.

Among the 3,205 released sex offenders, 25.2% returned to prison in Arizona at least once within an average follow-up period of 6.85 years. Among the 3,205, 18.9% returned with a new felony conviction, and 5.5% with a new felony conviction for a sex crime.

**Ohio:** The State of Ohio Department of Rehabilitation and Corrections (ODRC) completed a 10 year follow up study for sex offender recidivism. ODRC followed 879 sex offenders released in 1989. Their report, dated April 2001, provided the following results:

- Reccommitment for a new sex offense = 8.0%
- Reccommitment for a new non-sex offense = 14.3%
- Technical violation for a sex related issue = 3.0%

Sex offenders who returned for a sex related offense did so within a few years of release. One half were within two years of release, and two thirds within three years.

**New York:** The New York State Department of Correctional Services, Division of Program Planning, Research and Evaluation completed a nine year follow up on 556 prisoners with sex offenses released in 1986. The rate of return was 16% for a non-sexual offense and 6% for a new sex offense.

#### **WHAT IS THE “TRUE” RATE OF SEX OFFENDER RECIDIVISM?**

Underreporting of sex offenses is another factor that influences the accuracy and reliability of recidivism rates of sex offenses. Theoretically speaking, the true rate of recidivism may have been and will always be unknown since a significant number of sex crimes are never reported by victims or are undetected by the criminal justice system. The recidivism rate is normally only estimated from officially recorded crime statistics. Therefore, all recidivism rates, including those for sex offenders will be underestimated for one reason or another (Doren, 1998; Prentky, et al., 1997; Romero & Williams, 1985). It is well established in clinical studies that sex offenders, like other offenders, often commit crimes for which they are not caught or detected by law enforcement with a ratio of detected versus undetected sex crime as high as 1:5 (Abel et al, 1987; Ahlmeyer et al., 2000; Freeman-Longo, 1985; Groth et al., 1982; Hindman & Peters 2000; Marshall et al., 1988).

**Minnesota:** The Minnesota Department of Corrections reported, in April 2007, the results of a 12 year study on recidivism. 3,166 offenders were released between 1990 and 2002. The average follow up period was 8.4 years, with a minimum of three years and a maximum of 13 years in the community. The results indicated that the rearrest rate for a new sex offense was 12%, the conviction rate was 10%, and the reincarceration rate was 7%. When examining the data for all offenders after 3 years, the reincarceration rate was 3%.

Information from studies outside California is consistent with what the previously-cited statistics from CDCR have shown: only a small fraction of released sex offenders returned to prison due to another sex crime conviction. Some research also carefully examined sex offenders who returned to prison because of parole violations to determine whether they have returned to prison because of technical violation of a prohibited sex crime gateway behavior such as frequent visits to children’s playgrounds by a child molester.

A ten-year follow-up study of 879 sex offenders in the state of Ohio reported that when using sex offense conviction as the outcome measurement, of 34% of sex offenders who have re-offended, only 8% were re-committed for a new sex crime, plus 3% for a technical violation judged to be related to a potential new sex crime, while the other 22% re-offended for non-sexual offenses (Black, 2001). Many other studies conducted also report similarly low recidivism rates ranging from 4 % to 14 % (Furby, et al., 1989; Gibbons, Hanson & Bussiere, 1996; Hepburn & Griffin, 2004; NYSDPCA, 2006; Smoothill & Way, 1980).

### **The Use of Actuarial Risk Assessment to Predict the Recidivism of Sex Offenders**

The interest in determining what factors might increase or decrease the risk that a sex offender might re-offend was given a great impetus with the advent of a new generation of “Sexually Violent Predator” statutes in a number of states beginning in the early 1990s in Washington State. In order to legally civilly commit and hold a sex offender in a state hospital subsequent to the conclusion of his prison term, a number of criteria must be met, including a determination by experts that he is “likely” (language varies from state to state) to re-offend. This situation created a great need for knowledge of recidivism rates and for validated instruments that could predict recidivism with sufficient accuracy that they could withstand challenges in the courtroom. A handful of actuarial risk assessment instruments have emerged and the field continues to refine its tools. The “Static 99,” developed in Canada, is one of the most frequently used actuarial risk assessment tools.

Risk assessment research primarily focuses on predicting an offender’s future risk of recidivism based on perceived or diagnosed “dangerousness” of engaging in future sexual violence. Historically, past criminal records were used to forecast an individual’s likelihood of relapse into a similar crime or any crime in general. These types of approaches as well as actuarial predictions (using standardized risk assessments) are linear in the sense that the relevant historical facts or criminal records used to justify the prediction can be produced, weighted, and added together, while clinical predictions are largely intuitive based on a clinician’s expertise and experiences (Morris, 1994).

Empirical and clinical researchers have documented the risk characteristics of recidivistic sex offenders by using various risk assessment instruments (Gendreau et al, 1996; Hanson et al, 2000; Hepburn and Griffin, 2004; Lievore, 2003). The science of predicting the re-offense risk of sex offenders remains challenging, in part because of the very low rates of sexual re-offending (Hanson et al., 1998; Lievore, 2003; The Victoria Sentencing Advisory Council, 2007; Zgoba & Simon, 2005). Karl Hanson and Bussiere (1998) in their meta-analysis of 28,972 sex offenders assessed in 61 different studies identified at least 11 risk characteristics of sex offenders. Hanson and his associates report that although sex offenders may commit other types of offenses, other types of offenders (except murders) rarely commit sex offenses (Bonta & Hanson, 1995; Hanson, Seffy and Gauthier, 1995). If this were true, perhaps a set of different risk factors that are associated with the recidivism risk of sex offenders could be identified to distinguish

these offenders from non-sex offense recidivists (CSOM, 2001).

Furthermore, contrary to the general career criminal population where their risk of recidivism decreases with age so that the older the prisoner when released, the lower the rates of recidivism, recidivism rates for sex offenders do not seem to decline in the same manner. Langan et al. (2003) reported that the lowest rate of re-arrest for sex offense (3.3%) belonged to the older sex offenders (age of 45 or older); however, comparisons between offenders between the ages of 18 and 45 did not consistently show a decline in re-arrest rates as the offenders got older. Their study also revealed that no clear association was found between the length of the prison time the prisoners served and their risk of subsequent re-arrest. The impact of increasing age on the accuracy of predicting recidivism rates continues to be somewhat controversial, and, while it may not be a central concern solid knowledge in this area could have an impact on decisions about “lifetime” requirements for sex offenders.

## DYNAMIC RISK FACTORS AND RECIDIVISM

While the science of identifying factors known to be associated with sex offender recidivism is fairly well established, the actual factors used in developing such assessments have been “static” factors – aspects of an offender’s history, criminal record, etc. that do not change over time. More recently, increasing attention has been given to identifying “dynamic” risk factors – aspects of an offender that are fairly “stable” but can gradually change over time to increase or lower risk (e.g. impulsivity, hostility toward women, social skills and the like) or that are more “acute” so that they can change to increase risk very rapidly (e.g. access to a victim, sexual preoccupation, emotional collapse and others). Instruments to identify and track these factors allow for more effective supervision and help identify issues that need to be addressed in specialized sex offender treatment.

Through the efforts of the SARATSO Committee (State Authorized Risk Assessment Tool for Sex Offenders) established by the legislature and Governor in 2006, California is on a path to identify and implement the best possible available instruments for the assessment of “static” as well as “dynamic” risk. (See additional information about the SARATSO project in the Registration, Notification and Post-Supervision Section of this report.)

## Resources for Tracking California Sex Offender Recidivism

In the following sections, a preliminary attempt will be made to identify particular strengths and weaknesses with respect to California’s current knowledge base and available information systems that can be of help in learning more about the recidivism of the state’s identified sex offenders. Then the gaps or weaknesses in the knowledge base and information gathering systems will be listed. Finally, some preliminary suggestions



about ways California could reach ideal goals with respect to understanding sex offender recidivism in the state will be enumerated.

### **Summary of Strengths in Sex Offender Recidivism**

- California's Department of Justice (DOJ) and CDCR maintain comprehensive databases on those sex offenders in the State of California who are under their respective jurisdictions. The DOJ maintains information on all PC290 registered sex offenders while CDCR keeps records on prisoners and parolees. The institutional mechanisms and technical resources exist to effectively collect and further analyze information related to the state's registered sex offenders.

### **Summary of Gaps with in Sex Offender Recidivism**

- There is no broadly researched and replicated body of data about the recidivism of California sex offenders that would provide baseline measures to guide policy and evaluate the success of any new efforts to reduce recidivism.
- No information is available at this time regarding sexual recidivism for sex offenders on probation in California.
- Policy makers have neither sufficient resources for obtaining reliable information about recidivism nor do they have ready access to expert assistance in interpreting the complex recidivism data available from multiple sources.
- A more comprehensive study on the California sex offender population who have been released from prison, comparable to the one conducted by Langan (2003) is urgently needed to fully understand static and dynamic risk factors associated with the prediction of recidivistic sexual violence against women and children among different types of paroled offenders (various subtypes of sex offenders, violent offenders, and violence-plus offenders).
- The operational definition of "sex offender recidivism" used in any future California recidivism studies needs to be standardized to improve the accuracy and comparability of the data.
- The current classification system used to compile prison statistics needs to be modified to more readily track not only those entering prison as a consequence of a new sex offense conviction but also those who have prior sex crime convictions but return to prison as a result of a different type of (non-sexual) crime.
- Given the high level of public fear that sexual violence against children and against women can generate in the community, special attention should be given to those sex offenders who are evaluated, using the best available methods, and found to be at higher risk of re-offending. An ongoing research program could determine the most effective methods for managing those offenders and then resources proportionate to their risk to the community could be devoted to reducing their risk to further victimize.


- The community-based High Risk Sex Offender treatment programs for parolees provided by private-sector practitioners contracted by CDCR now serve approximately 300 offenders and are currently in the process of expanding to over 2,700 additional treatment slots. The current programs do not have a research component to track recidivism. There is an indication that the new expansion will include some type of evaluation. Such an evaluation will have the opportunity to - and definitely should - carefully examine multiple factors associated with sex offender recidivism.
- There are indications in the research that there is a relatively small number of very high risk sex offenders who have committed and are likely to continue to commit a large number of sex offenses. Such a pattern is commonly found among those chronic violent (non-sex crime) offenders identified in career criminal research. Studies of violent offenders agree that a small group (4-6%) of chronic offenders (5-plus arrest records) are responsible for an overwhelming majority (70% to 80%) of those serious violent index crimes reported to police. Not enough is known about these very high risk individuals. Of course it is the intent of the California Civil Commitment system for sex offenders (Sexually Violent Predator Program) operated by the Department of Mental Health, to identify such individuals and address their risk issues, in a custody setting, in a very intensive and costly treatment program. Recidivism data should be carefully gathered on those who are identified as high risk but who do not meet all the criteria for civil commitment. The goal would be to ground future efforts to better manage such individuals on a solid knowledge base.
- Little is known about the extent to which recidivism rates climb after the period of formal supervision and control under the authority of the criminal justice system (parole and probation) ends and sex offenders are simply living in the community as “free” citizens. Research about post-supervision recidivism should be undertaken.

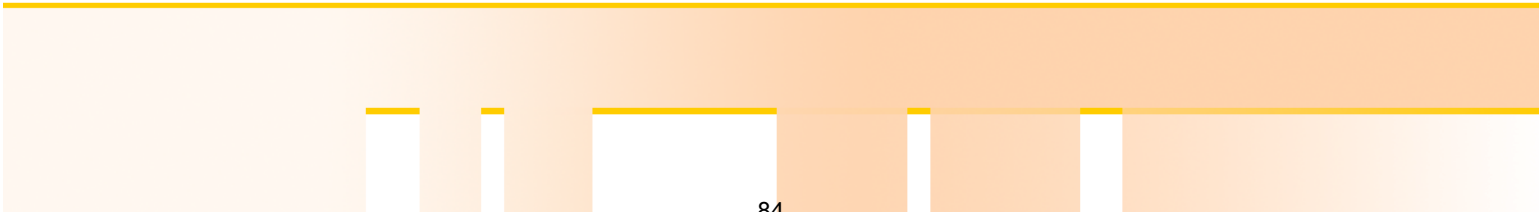
### **Recommendations for Future Research**

**NOTE: a number of the “Gaps” identified above include suggestions for efforts to remedy them.**

- Researchers can work with the Department of Research at CDCR to more fully establish a research protocol designed to define and measure the recidivism of sex offender parolees.
- Parallel efforts should undertaken to establish systems that can define and measure sex offender recidivism among probationers in the state of California who have been convicted of a crime that is sexual in nature.



- 
- Implementation of new policies and management methods for California sex offenders needs to include a research component to determine whether the approach actually lowers recidivism rates.
  - As California begins to implement the legislatively-mandated risk assessment of sex offenders through the use of a selected State Authorized Risk Assessment Tool for Sex Offenders (SARATSO), corresponding research is needed to further validate the instruments on California populations and to improve the ability to predict recidivism in any way possible.
  - Sex offender treatment is not available for incarcerated sex offenders in California, and research has suggested that the recidivism rate is consistently lower for treated sex offenders than for untreated offenders. Should the plans to initiate an in-prison treatment program for sex offenders lead to successful implementation, the research potential of such a situation should be fully utilized.



# 4

## INVESTIGATION AND PROSECUTION



## **INTRODUCTION**

Under California law, it is law enforcement who has the primary responsibility for the investigation of sexual assault cases. Sexual assault cases are reported to police in a number of ways, including but not limited to, calls for help through 911 or general number, face-to-face report at the department, hospital or clinic report, and report by a mandated reporter of sexual assault. It is the responsibility of law enforcement to both respond to and investigate reports. Law enforcement is empowered to make arrests of those individuals against whom there is a reasonable suspicion of the commission of a sexual assault crime.


It is the role of the Office of the District Attorney in each county to determine which offenders will be prosecuted and for what charges. How a sexual assault case is charged plays a dispositive role in the success of the prosecution of the case for the maximum sentence. If the charging decision fails to encompass the most serious of the charges (under-charging), protection for the community may suffer by prematurely allowing the alleged perpetrator back into the community. It is both the ethical obligation and statutory mandate that prosecutors file the most serious charges and all charges that are supported by evidence beyond a reasonable doubt. Such decisions also have the potential for negative effects on victims.

## **TOPICS IN INVESTIGATION AND PROSECUTION**

- Specialized training for law enforcement
- Policies and procedures for sexual assault investigations
- Specialized sexual assault investigative units
- Multi-disciplinary teams and collaboration
- The emergence of forensic serology (DNA)
- Prosecution
- Specialized training for prosecution attorneys
- Description of Pretrial / Pre-Adjudication / Plea Negotiation process

## **SPECIALIZED TRAINING FOR LAW ENFORCEMENT**

It is the responsibility of law enforcement to determine whether a crime has been committed. This investigation should be carried out in a professional, thorough and sensitive manner to protect the rights of the alleged victim and the suspected offender. California Penal Code Section 13516(a)-(c) requires that those investigators who are assigned to child sexual assault and exploitation investigations and arguably adult sexual assault investigations must complete 40 hours of specialized training within 6 months of the assignment. This is particularly necessary for the protection of sexual assault victims and the increasing use of criminal justice databases and the protection of DNA evidence. The mandatory training pursuant to Section 13516 is prepared and implemented by the Commission on Peace Officer Standards and Training [POST] and is generally funded



through state general funds. It is also the practice in larger police agencies to provide the training in-house to its investigators but requires certification from POST.

The California Sexual Assault Investigators Association (CSAIA) supplements law enforcement training with twice-yearly advanced training conferences and several day workshops throughout the year. This training emphasizes innovations in Best Practices as it relates to sexual assault investigation. This training helps provide consistency and uniformity in investigative practices. However, many jurisdictions, especially within small counties and city police departments, have officers who handle many different types of cases and therefore are not specialized in sex crime investigation or mandated to be trained per the Penal Code section. Experiencially, those departments that provide in-house, on-going training to the officers and particularly, the sexual assault investigators, generate more effective investigations, including better report documentation and evidence. These investigations have a direct and positive impact on the victim(s) of the sexual assault crimes. More recently, training in the area of internet crimes against children are offered to law enforcement officers and sexual assault investigators.

## **POLICIES AND PROCEDURES FOR SEXUAL ASSAULT INVESTIGATIONS**

Regarding the question of policies to guide sexual offense investigations, Section 13516 of the California Penal Code, Sex Crime Investigation states that “(a). . . POST shall prepare guidelines establishing procedures which may be followed by police agencies in the investigation of sexual assault cases, and cases involving the sexual exploitation or sexual abuse of children, including, police response to, and treatment of, victims of these crimes.” Information gathered through the California Sexual Assault Investigators Association suggest that nearly all law enforcement agencies have adopted guidelines for investigation.

By law, each law enforcement agency conducting a sexual assault investigation must have standards, guidelines or policies in place to guide the investigation process. The California Children’s Justice Act has established minimum standards for the investigation of sex crimes against minors while POST provides guidance in setting standards for investigating sex crimes against adult victims. In both types of investigation, guidelines, standards and policies should include:


- The responsibility of the law enforcement personnel receiving the initial report of an offense
- The responsibility of the responding officer
- Evidence documentation and collection procedures, particularly for DNA and/or drug facilitated analysis
- Sexual Assault Response Teams (SARTs), Multi-disciplinary Interview Centers (MDICs), Family Justice Centers (FJC), SAFE Teams and Sex Offender Management Councils
- Crime scene preservation
- Victim notification regarding investigative procedures

- Confidential Communication protections
- Victim interviewing
- Suspect interview / interrogation
- Mandatory notifications
- Follow-up investigative procedures
- Case management.
- Officer wellness

## **SPECIALIZED SEXUAL ASSAULT INVESTIGATIVE UNITS**

Sexual assault investigation is viewed as one of the most challenging, demanding and sophisticated types of investigation conducted by law enforcement. As such, specialized units are optimal for the effective response to and investigation of sexual assault cases. Section 13516(d) of the California Penal Code, Sex Crime Investigation states: “[i]t is the intent of the Legislature in the enactment of this section to encourage the establishment of sex crime investigation units in police agencies throughout the state, which shall include, but not limited to, investigating crimes involving the sexual exploitation and sexual abuse of children.” A survey conducted by the Sex Offender Management Task Force, indicated that many mid-sized and large police agencies have specialized units whose assignment is to investigate sexual assault crimes, while smaller departments rely on their patrol and investigative staffs to carry out those obligations. Some departments have created specialized units that combine the investigation of interpersonal crimes of violence (domestic violence, sexual assault, child abuse and exploitation, elder and dependent adult abuse). Many of those units include the investigation of sexual assault crimes against children and adults, which may draw upon differing skills and law enforcement techniques. Furthermore, strategies for investigating family violence crimes, child sexual or physical abuse, the sexual exploitation of minors, human trafficking and/or adult sexual assault may differ. Also of note is that in many law enforcement departments that have specialized units, the investigation of crimes against sexually exploited minors and crimes involving human trafficking continue to be conducted by VICE units, rather than sexual assault units or sexual assault investigators. Some departments have specialized officers monitoring registered sex offenders and/or annual PC 290 registration. The number of SAFE Teams, a collaborative team of multiple law enforcement departments and the Department of Justice assigned to monitor and apprehend sex offenders, is growing. However, very few departments have implemented units or have assigned officers whose primary function is to investigate cold hit cases once notified by California DOJ, CHOP program.

California receives several million dollars per year (on the average \$13,000,000) from the federal government under the Violence Against Women Act. Law enforcement is, by law, entitled to 25% of the STOP funds which, by statute and design, support Specialized Units, Training, Officers and Prosecution. POST receives a certain percentage of the available STOP funds; the remaining funds are dispersed through a competitive, Request For Proposal (RFP) process. By adoption of this division strategy, available funds to



create specialized units are limited leaving the creation of such units on the fiscal and philosophical shoulders of local law enforcement.

## **MULTIDISCIPLINARY TEAMS AND COLLABORATIONS**


Emerging practices endorses the importance and effectiveness of a multi-disciplinary team approach to the investigation of sexual assault cases. It goes without saying that when there is a multi-disciplinary approach, investigations are stronger, more thorough and generally more sensitive to the survivor. The same is true for the effectiveness and success of the prosecution. The multi-disciplinary approach also cares for the survivor's mental health and physical needs. These multi-disciplinary teams including the use of sexual assault response teams (SART), multi-disciplinary interview centers (MDIC) Family Justice Centers (FJC), Sexual Assault Felony Enforcement Task Force (SAFE) and newly emerging, Sex Offender Management Councils.

SART partners trained forensic medical examiners, rape crisis counselors and law enforcement, later joined by the prosecution, crime lab and other allied professionals. In concept, a SART involves the designation of a location within a medical facility whose function is to create a private space for the sexual assault survivor to meet with his or her rape crisis counselor, a location for law enforcement to both interview the survivor and a site for report writing and an exam area for the completion of a forensic/medical examination at the request of law enforcement with the consent of the survivor or his/her guardian if a minor. All medical professionals conducting a sexual assault examination must adhere to a comprehensive medical examination protocol (Office of Emergency Services [OES] Instructional Form 923), and the fiscal responsibility for the examination is on local law enforcement.<sup>1</sup> Since law enforcement pays for the examination, they must request it. All survivors have the right to have a medical examination at no cost to themselves, and certainly, any forensic examination is done with the consent of the survivor, even if law enforcement is paying. All police departments should have training and protocols regarding when it is appropriate for law enforcement to authorize a forensic examination.

MDIC involves a child friendly location at which a child is interviewed by a trained forensic examiner who conducts one comprehensive interview appropriate for all interested professionals, particularly effective for law enforcement. The interview is recorded (visual and audio) while the interested professionals observe through 2-way glass, 2-way mirror or through closed circuit. If the observing professional has a question or area of questioning, he/she can communicate such to the interviewer who in turn, poses the question(s) to the child. MDIC interviews are designed to reduce or eliminate residual or further trauma to the child by limiting the number of times the child must tell what happened. Best Practice has a prosecutor assigned to the MDIC and is involved in the investigation from its inception. Alternatively, having a prosecutor respond to the

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<sup>1</sup> Formerly OCJP 923 Form [The Penal Code section 13823.5(c) mandates the use of OES 923 Form in all sexual assault examinations]



MDIC interview is important. Some prosecutor offices have utilized high technology tools, such as Virtual Private Networking (VPN) and electronic, real-time links between the prosecution office and the MDIC.


The recent emergence of family justice centers, with wider-spread interests from other communities, provides an organizational structure not seen before in the justice community. FJCs co-locate law enforcement with prosecutor, civil attorneys, rape crisis counselors, child counselors, medical-forensic examiners and other allied professionals who respond to and work with sexual assault survivors. The co-location of providers and responders is designed to provide the survivor with a multitude of services under one roof, and to enhance the availability and delivery of services by making them comprehensive and collaborative in nature. As with all sexual assault cases, issues of confidentiality and the protection of certain communications as confidential are maintained; the professionals work more closely together to remove barriers from survivors accessing services and service providers. Currently, there are six fully operational FJCs in California: two in San Diego, one in Alameda, which goes beyond domestic violence to include a Rape Crisis Center, MDIC and forensic examination areas, Anaheim, and two in Riverside. Other centers, or variations of FJCs, are located in San Jose and Vallejo with many more communities exploring the creation of a FJC.

There are six established Sexual Assault Felony Enforcement Task Forces (SAFE) and eight in the process of being created. These teams are a collaboration of several police agencies in a county in partnership with the Department of Justice and are tasked with monitoring and enforcing laws pertaining to sex offenders in the community.

What a SART, MDIC, FJC and SAFE have in common is a structure in which allied professionals work in collaboration to coordinate a more effective response to, and investigation and prosecution of, criminal cases in a more comprehensive manner. The multi-disciplinary team approach is a Best Practice for providing maximum protection of victims of sexual assault crimes while criminal and social service investigations are occurring. While sexual assault victims have confidential communication protection with some professionals with whom they interact (rape crisis counselors), adopting the multi-disciplinary team approach appears to be the best vehicle for identifying perpetrators and obtaining evidence that can be crucial to successful prosecution, while reducing or eliminating further traumatization to victims. The process of working together is designed to minimize trauma to the victim and obtain optimal results in the collection of evidence. The presence of teams also encourages the sharing of non-protected, non-confidential information and enhances the investigative process.

A survey, funded by the Governor's Office of Emergency Services and authorized by the Sexual Assault Committee (SAC) and conducted by the University of California, Davis Medical Training Center (UCDMTC) reveals that there is a small percentage of communities who have made the commitment to participate in a collaborative, comprehensive, team approach relationship involving sexual assault cases. Recently, UCDMTC selected 20 projects to visit in order to garner structural, organizational and





participatory information. Noteworthy, the California Sexual Assault Committee (SAC) has identified as a priority to increasing the number of SARTs throughout California.

Survey responses indicate that the trend is for counties to have a partnership among law enforcement, prosecutors, forensic examiners, crime laboratory, mental health professionals and victim advocates to help respond appropriately to sexual assault cases. This collaborative effort allows for critical information sharing among agencies charged with the investigation of sex offenses. However, it appears that there is little uniformity between counties with regard to the representatives on these teams, raising the concern that important stakeholders may not be represented. For example, some jurisdictions do not include representatives from the District Attorney's Office or social service agencies.

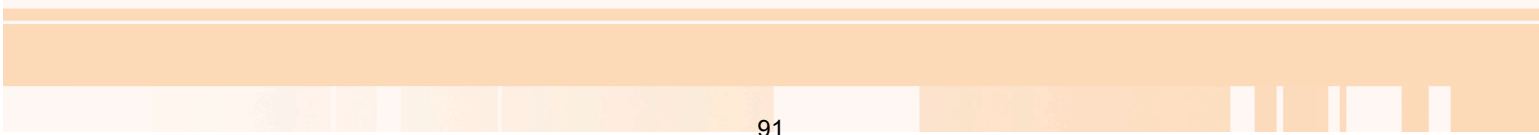
Also important is for law enforcement to create safe, discreet, victim-sensitive environments to conduct investigations for both child and adult victims. Survey results indicate that generally speaking, agencies have suitable facilities in which to conduct investigative interviews in cases involving child victims. However, over 50% of agencies report that they do not have a designated victim-sensitive environment for adult victim investigations.


## **THE EMERGENCE OF FORENSIC SEROLOGY**

The emergence of DNA as a forensic science and law enforcement tool is one of the most significant changes in the way in which sexual assault cases are investigated. Although most sexual assault crimes are committed by perpetrators known to the victim, it is significant that law enforcement can now identify sex offenders (or exonerate those suspected of sex crimes) if the identity is made by other means.

Within the last seven years, through legislative changes and authorization of resources, every community and every police department has had the opportunity to build its infrastructure as it pertains to DNA. Changes in the law have occurred; most significantly, Penal Code Section 803, which extended the statute of limitations to 10 years for those felony sexual assault crimes listed in PC Sect. 290 and allows for a "floating" statute of limitations of 1 year from the date the identity is conclusively established through DNA so long as the evidence is analyzed for DNA type within two years of the commission of the crime. At the time the law went through its initial amendments, the DOJ dedicated close to \$50,000,000 for crime labs and local law enforcement to reduce and eliminate its backlog of cases as well as build up the forensic science infrastructure.

In 2007, California law required all convicted sex offenders to submit DNA for inclusion in the DNA database maintained by the Department of Justice. In 2009, that same law will require all those arrested for felony crimes to submit DNA for inclusion in the database. All counties surveyed report that DNA samples are routinely collected on all cases referred for investigation and prosecution. This practice has helped lead to the identification of suspects in previously unsolved cases. One consistent problem,





however, is that it may take months for forensic data, in particular DNA samples, to be analyzed. Counties with access to a laboratory within their jurisdiction appear to have a more rapid turn around of evidence compared to those who use the Department of Justice crime laboratory. A few counties reported on the use and utility of DNA Screening Committees that bring together prosecutors, law enforcement and criminalists to help prioritize cases, consult on unsolved or “cold cases,” and to share ideas about investigation and the processing of evidence.

Further, as the DNA database holding hundreds of thousands of DNA profiles increases, more previously unsolved sexual assault cases are being solved. However, few departments have the resources or personnel to dedicate to cold hit units.


## **PROSECUTION**

The most significant event that has directly affected the prosecution of sexual assault crimes has been the enactment by the voters through the initiative process of Proposition 83 (Jessica’s Law) and the passage of Senate Bill 1128, both occurring in 2006. While the residency restrictions imposed through Jessica’s Law are currently getting a lot of media and public attention, it has the least amount of day-to-day impact on the prosecution. As to the residency restriction only, there is a strong debate as to whether Jessica’s Law has created a new crime, or not. As the argument is stated, under criminal law, conduct contained in a statute without articulated consequences or punishment, does not create a violation of the law or a crime. Without consequences or punishment, the prosecution has no role in the imposition, enforcement or prosecution of individuals who fail to comply with the residency restriction. These issues and others, such as retroactivity, are before the Courts and it is assumed that the definitive outcome will be determined through litigation.

As for other portions of both SB 1128 and Jessica’s Law, several new laws, increased punishments and necessary amendments to existing laws have been enacted. It is incumbent on the prosecution to provide training to prosecutors on changes in the law to urge prosecutors to use the strong tools that have been provided by both the voters and the legislature.

### **Reviewing and Charging**

Prosecutors have the ethical obligation to only file charges they believe can be proved beyond a reasonable doubt and those that are supported by credible evidence. The prosecution should review police reports identifying those sex offenders or aggravating conduct which give the factual basis for more serious charges and/or enhancements, such as one-strike allegations. Where the facts support it, the most serious charges should be filed and enhancements alleged exposing the most serious offenders and/or the most serious conduct with the most serious sentences. As the law stands currently, these most serious sex offenders can be sentenced to life in prison, separating them from the free society and potential victims in the free society, only returning to freedom after review




and hearing by parole professionals. Best Practice has the same prosecutor reviewing cases for purposes of charging (or not) and then handling that case through completion. This is not always possible in many offices: in large offices, sheer volume of cases requires a separate team of prosecutors who review and issue charges from those actively prosecuting the cases; in smaller offices, smaller staff sizes challenge the Best Practice of the same prosecutor who files the charges also prosecutes. Without doubt, all prosecutors who are reviewing cases for the purpose of issuing charges must receive specialized training in the area of sexual assault charging and sentencing. Otherwise, the negative result can be that significant decisions are being made out of ignorance or a lack of training. This is also true of cases alleging violations of Penal Code Section 290.

There are no statistics that gauge or capture the “available” crimes for charging; rather, only those crimes that are filed and the ultimate convictions can be captured. However, the general philosophy of seeking the maximum charges and maximum punishment where appropriate should be the norm. A survey conducted by the California District Attorneys Association (CDA) Sexual Assault Committee suggests that 100% of the responding counties have established guidelines that ensure some form of consistency in filing decisions for both adult and juvenile cases. Additionally, it has been reported that the guidelines also ensure the charged offense(s) accurately reflects the seriousness of the actual events. For adult offenders approximately 25% of the counties responding fail to keep comprehensive filing data. The absence of this data limits the ability of jurisdictions to evaluate the outcome of their filing decision policies. Survey results failed to capture the percentage of counties that have a single, experienced individual responsible for the review and filing of adult sexual assault cases.

### **Vertical Prosecution**

Vertical Prosecution is the practice of assigning one deputy district attorney or city attorney (in very few cities and only in misdemeanor crimes) to a case from its inception once it comes to the District Attorneys’ or City Attorneys’ Offices through conclusion. There are multiple forms of Vertical Prosecution: complete Vertical Prosecution, which is the same deputy handling every aspect of the case, including the first court appearance, bail motions, preliminary examination, pretrial management, victim contact, resolution via plea or trial, and ultimately judgment and sentencing/disposition; major stage Vertical Prosecution, where only significant portions of the case are handled by the same prosecutor; team Vertical Prosecution, where a team of prosecutors share the case and are interchangeable in the prosecution of the case (CSOM, 2004). Vertical Prosecution occurs frequently within units whose sole responsibility is to prosecute sexual assault cases. This model encourages a level of consistency, professionalism and expertise that enhances prosecution outcomes.

California receives several million dollars per year (on the average \$13,000,000) from the federal government under the Violence Against Women Act. Prosecution is, by law, entitled to 25% of the STOP funds which, by statute and design, support Specialized Units, Training, Officers and Prosecution. The California District Attorney’s Association




receives a certain percentage of the available STOP funds; the remaining funds are dispersed through a competitive, Request For Proposal (RFP) process. By adoption of this division strategy, available funds to create specialized units are limited leaving the creation of such units on the fiscal and philosophical shoulders of local District Attorney Offices. Also, each District Attorney Office receives a portion of a “block grant” through the general fund that is an incentive for prosecution offices to provide focus and resources to the most vulnerable victims and complicated cases, including child sexual assault, statutory rape, career criminal, elder abuse, major narcotic enforcement. Each prosecutor office has the authority to determine in which areas to assign Vertical Prosecution and of the five articulated areas, what percentage, if any, to assess. Clearly, Vertical Prosecution is more beneficial to the case and to the victims than traditional prosecution structure in virtually all aspects with the exception that it is not the most cost-effective manner. Cost is a very realistic factor and poses tremendous challenges for District Attorneys and its impact cannot be ignored.

Survey results indicate that 100% of the responding counties use the model of Vertical Prosecution for adult sexual assault cases. Counties also report that specialized training is always given to 100% of deputies who prosecute adult sexual assault.

## **SPECIALIZED TRAINING FOR PROSECUTION ATTORNEYS**

Training prosecutors on the investigation and prosecution of sexual assault cases is key to the appropriate handling, appropriate decision making and appropriate prosecution of cases. The California District Attorneys Association (CDAA) is statutorily directed to provide sexual assault training to prosecutors. However, general budget cuts have been reduced from more than \$40,000 per annum to less than \$7,000 per annum. Nevertheless, the CDAA Sexual Assault Training continues to utilize a victim-centered approach recognizing that victims must be allowed to determine their own level of participation in criminal justice system proceedings. Between 100-175 prosecutors are trained annually.

In response to the reduction of funding for sexual assault training programs and carrying out its commitment to have specially trained prosecutors handling sexual assault cases, CDAA, through leaders in the sexual assault prosecution field, established the Sexual Assault Mentor DA Program. The program is a direct response to the state’s reduction in budget funds. The program identifies sexual assault experts who commit to being “sexual assault mentors (SAM).” The commitment is a year-to-year commitment. The SAMs are identified by subject matter expertise, region, availability and interest. The program provides SAMs to prosecutors for a multitude of purposes, including answering technical and strategic questions, strategizing for trial purposes, one-on-one mentoring throughout a trial, being a resource for a prosecutor and, where an office identifies the need, the SAM DA program will put together a training team to go to an area or office and provide in-person training designed to meet the needs of that particular office. While originally designed to provide mentoring to prosecutors, several allied professionals have benefited from the program.



The SAM DA Program links requests for assistance with the investigation and prosecution of physical and sexual abuse of children and sexual abuse of adults to experts in the specific area of need. The program provides geographically convenient on-site training delivery by experts upon invitation of the recipient DA's office. At its inception, 18 mentors were recruited, screened and enrolled. To date, the project has enlisted more than 25 Mentors.

The goals of practice of the SAM DA Program fills a long-standing void to efficiently, expeditiously, and systematically provide expert assistance to prosecutors, law enforcement, victim advocates, medical professionals and all other allied professionals in need of counsel at critical junctures in the life of a criminal case. The SAM DA program has its own website accessible through CDAA's website at [www.cdaa.org](http://www.cdaa.org) or directly at [www.cdaa.org/MentorProj/samda.htm](http://www.cdaa.org/MentorProj/samda.htm). CDAA maintains a list serve for the exchange of information between Mentors. Moreover, any prosecutor needing an answer to a technical question about a child abuse, neglect or sexual assault case can query all Mentors via the mentor list serve by sending an email to Senior Training Consultant Suzanne Hunter who will forward the questions/issues from the prosecutor to the Mentors. The Mentors respond directly to the questioner and copy CDAA.

Since the program began in 2004, Mentors have logged over 800 hours assisting prosecutors, peace officers, victim advocates, SART personnel, social workers, community organization members and others. This number is especially impressive when it is taken into consideration that the average mentoring event lasts 10 minutes! Moreover, to date, more than 1,200 prosecutors, more than 1,700 peace officers, more than 650 victim advocates and more than 1,100 allied personnel, including SART personnel, social workers, and community organization members, have been assisted or trained by the Mentors. The benefits of the field of victim service professionals have proven to have had a positive impact, resulting in better services to victims.

Two new audio casts, funded by the grant, were added to our growing library—*General Voir Dire Mechanics and Issues* and *Cross-Examination Tips*—are available to child abuse prosecutors via CDAA's website. The SAM DA program is planning an additional audio cast on human trafficking, which will include sex trafficking of minors. CDAA provides news articles on human trafficking and information on California's human trafficking law sent by email to prosecutors bi-weekly. CDAA also produced the *2006 Crimes Against Children Reference Guide*, and the *Adult Sexual Assault Reference Guide* containing law and resources and distributed 800 copies to prosecutors in California. CDAA provided legal updates through electronic transmission of legal briefs of appellate court opinions pertaining to child abuse and informational human trafficking updates through news alerts. Additionally, CDAA produces a quarterly legal publication, *Unsilenced*, dedicated solely to issues involving sexual assault.

## **CASE MANAGEMENT ~ PRETRIAL / PREADJUDICATION / PLEA NEGOTIATION**

Considerations on whether or not to allow sex offenders to remain in the community prior to trial or during the adjudication process require adequate pretrial management processes to be in place to assess the potential risk to the community or possible flight of the alleged offender. Each county is required by law to adopt uniform bail schedules and pretrial supervision approaches to ensure the safety of victims and the community (Barbaree & Cortoni, 1993; English et al., 1996b, Flora, 2001; Myers et al., 1996; Schafran et al., 2001a, 2001b). In determining bail amount or whether bail should be given, Penal Code Section 1275 requires the court to take into consideration the protection of the public, the seriousness of the crime, the defendant's previous record and the probability of his or her appearance. Other factors that may influence this decision include the level of severity of the crime, impact on the victim, and the need to ensure community safety.

While each county has adopted a bail schedule, there is no requirement that each county conform to other counties, or even the surrounding counties to itself. The decision for bail and bail amount, therefore is a local decision. The district attorney should be involved in the preparation and adoption of bail schedules within his or her county. These schedules should be reviewed annually.

The Sex Offender Management Task Force conducted surveys (CSOMB, 2007), the responses of which indicate that the vast majority of the respondents (87-100%) had protocols in place that ensure a victim-sensitive approach to prosecution. The vast majority of respondents recognize the obligation to keep the victim fully informed and apprised of the various processes in the legal system and the rights to which he/she is entitled. Survey responses also suggest that most respondents recognize the necessity of providing a service that is victim sensitive so as to ensure the continued cooperation of the victim, lessen victim trauma, and increase the probability of a successful outcome. However, the survey results reveal two important gaps relative to inclusion/protection of the victim in the prosecution of adult cases. 12.5% of respondents fail to consult with victims prior to finalizing plea agreements and 25% of respondents indicate a lack of policies to prevent the circulation or misuse of sensitive evidence. Similar issues were found with respect to the prosecution of juvenile cases with the additional finding that 57% of respondents do not meet with the victim early in the process to explain court proceedings and assess victim needs.

Survey results also indicate that 100% of respondents recognize the importance of the fact that in cases where plea-bargaining is utilized, the practice should reflect the nature and severity of the alleged offense. However, 25% of the respondents for adult sexual abuse cases and 55% of respondents for juvenile sexual abuse cases indicate they do not have policies, standards or guidelines in place to ensure the consistent application of these principles. The survey failed to establish whether such policies were in place to guide the use of plea bargains for other nonsexual types of offenses.



## Summary of California's Strengths in Investigation and Prosecution of Sex Offenders

### INVESTIGATION:

- Statutorily mandated training for Sexual Assault Investigators
- Specialized Units for Sexual Assault Investigators
- Collaborative Team approaches through SARTs, MDICs, FJC's and SAFE Task Forces
- Working more closely with Prosecution from the inception of the Investigation
- Statutory mandate for convicted sex offenders to submit DNA
- Creation and utilization of the DNA database, including use of CODIS and the CHOP program
- Support of Specialty Law Enforcement Professional Organizations (CSAIA, local Sexual Assault Investigators Associations)

### PROSECUTION:

- Vertical Prosecution
- Consolidated and Standardized Training through CDAA
- Sexual Assault Mentor District Attorney Program (SAM DA) through CDAA
- Statutorily mandated Victims Bill of Rights in Penal Code Section 679 (*et seq.*)

## Summary of California's Gaps in Investigation and Supervision of Sex Offenders

### INVESTIGATION and PROSECUTION:

- FUNDING
  - Lack of Funding for Vertical Prosecution and Specialized Units
  - Lack of Funding for Training for Prosecutors
- Specialized Units not available in all counties
  - Vertical Prosecution is more expensive than traditional prosecution management and the fiscal commitment challenges many if not most, prosecutor offices.
- Lack of training for all prosecutors who handle sexual assault cases
- Number of communities that have developed collaborative teams, such as SARTs, MDICs, FJC's and SAFE Task Forces is small.

### **Recommendations for Future Research**

- Comparison of cases handled by Specialized Units in Law Enforcement, using all available tools, such as MDIC, SART, and FJC, against those not utilizing those services.
- Comparison of cases Vertically Prosecuted, including charges filed, time case pending, tools utilized by investigation and prosecutors and sentence against those not handled in the same manner.
- Victim surveys of the impact of the investigation techniques and/or prosecution management.
- Development of Efforts-to-Outcome studies on the effectiveness of various investigation and prosecution tools as well as methods of investigation and prosecution
- Impact of newly created laws on sex offenders and/or the community, particularly as new laws provide a deterrence for future criminal sexual behavior.



## SUPERVISION

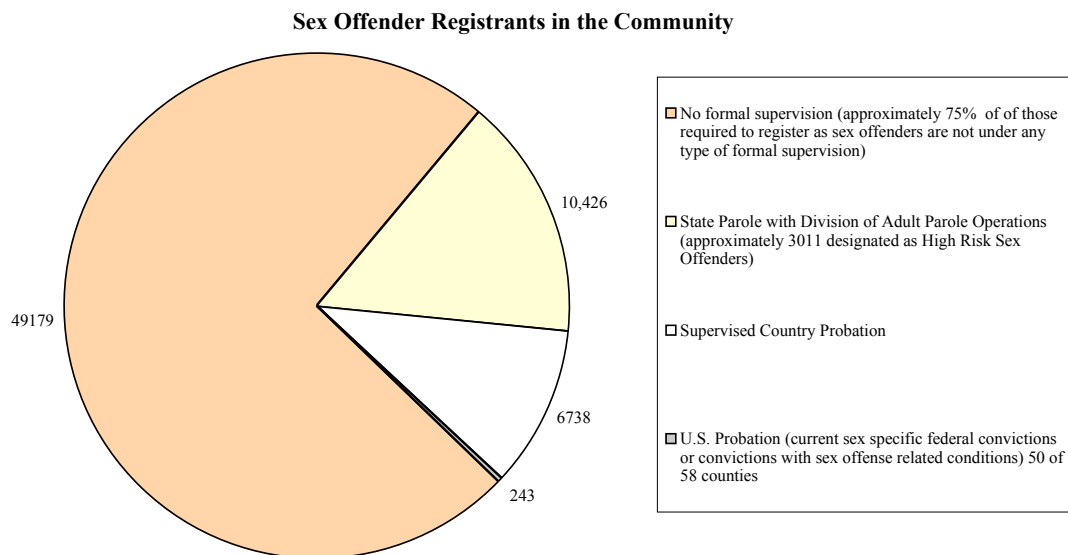
# 5

## INTRODUCTION


Supervising sex offenders who have been released to the community is a task that must focus primarily on public safety. The main purposes of supervision include successful re-entry into the community, successful re-assimilation into the community, and helping in the groundwork and preparation for the parolee or probationer's long term success as a viable, productive member of the community. All of these areas in combination reduce the likelihood of reoffense and help to alleviate public fear of sex offenders released back into the communities.

Most sex offenders living in California communities are not under formal supervision. As the chart below demonstrates, approximately 75% of registered sex offenders are not under parole or probation.

**Chart 5-1.**



Formal supervision is comprised of three major supervising entities, including CDCR's Division of Adult Parole Operations (DAPO) at the state level, County Probation Department for felony convictions, and some registered sex offenders in the state of California are under United States Probation for federal convictions. U.S. probation has implemented regional sex offender supervision policies. Registered sex offenders who



are under informal county supervision for misdemeanor convictions have no supervising agent and are not required to report for supervision. At the conclusion of the term of supervision, a registered sex offender has continuing supervision by local law enforcement, multi-jurisdictional task forces, state task forces, and the community. CDCR has statewide policies, practices and programs for implementation throughout California. County Probation policies and practices vary greatly from one county to the next.

### **Law enforcement sex offender monitoring and registration enforcement teams**

Supervision of the over 49,000 sex offenders no longer subject to formal supervision is being undertaken in various forms throughout the state. Several law enforcement agencies have specialized sex offender tracking and registration enforcement teams. Some of the largest teams are located in San Diego and Los Angeles. Other agencies work in task force or Sexual Assault Felony Enforcement (SAFE) collaborative configurations combining local, state and federal agents, including local law enforcement, prosecutors, county probation, CDCR parole, California Department of Justice, Immigration and Customs Enforcement (ICE), Federal Bureau of Investigation (FBI) and the United States Marshals Service. The California Department of Justice Bureau of Investigation also staffs Sexual Predator Apprehension Teams (SPAT) throughout the state.

Current staffing and funding for post-supervision teams is inadequate to cover the sheer number of sex offenders in California's communities. Requests to the Legislature for continued funding of the California Department of Justice Sexual Predator Apprehension Teams have been rejected. Local law enforcement sex offender teams must be taken out of existing resources. SAFE teams, while funded, have a small number of personnel compared to the thousands of registrants who must be monitored in the designated coverage area.

### **The community**

The ability of the public to actively participate in offender monitoring in the community provides needed tips to law enforcement and serves to further involve all stakeholders in ensuring public safety.

Sex offender information posted on the Megan's Law website for viewing by the public is provided for public protection. In addition, a "Report Information to DOJ" button is available as a direct link to the California Department of Justice to report if a registrant is in violation of registration requirements, or if information on the offender is inaccurate. In 2006, 11,739 "tips" through this public reporting feature were sent to DOJ. In 2007, DOJ received 9,902 citizen referrals.

## Evidence-based Practices in Supervision

Evidence-based practices of what works best in ensuring the community's safety and reducing the likelihood that future sex crimes will be committed will be reviewed in this section. In addition, California's current practices will be reviewed. Current strengths and gaps will be highlighted regarding how California compares to what evidence-based supervision strategies might suggest.

### TOPICS IN SUPERVISION

- Review of the Research Literature on Community Supervision of Sex Offenders: The Containment Model
- Tools of Supervision
- Conclusion of What Works in Supervision
- California Department of Corrections and Rehabilitation
- Sexually Violent Predators
- California Probation
- Cost of GPS Tracking

Chart 5-2

### THE CONTAINMENT MODEL

Law Enforcement / Supervision



## REVIEW OF THE RESEARCH LITERATURE ON COMMUNITY SUPERVISION OF SEX OFFENDERS: THE CONTAINMENT MODEL

The Containment Model of community supervision was the most cited in the literature as what other counties and states strove to emulate when developing their own plan of sex offender management (i.e., DOC VA, 2002; English, Colling-Chadwick, Pullen, & Jones, 1996; English, Pullen, Jones, 1999; Hallett, 2006; NJ State Parole Board, 2007; Nieto & Jung, 2006, PA Sexual Offender's Assessment Board, 2006). The Colorado Sex Offender Management Board was the most cited collaboration of practitioners and community participants proposed as a model for community participation (i.e., CSOM, 2000). The Containment Model has shown success in promoting community safety and reducing sex offender recidivism.

**I. A community safety/ victim-oriented approach.** Community safety and victim notification are key values of the Containment Model of supervision (English, 1998; Lane Council of Governments, 2003). Careful, individual assessment of each sexual offender placed in the community and monitoring of special conditions can help ensure potential victim safety.

**II. Multi-disciplinary collaboration.** Agencies and effective supervisors of sex offenders collaborate and communicate with each other. In the Containment Model (English et al., 1996 1999) the agencies and organizations who work with sex offenders need to communicate with each other. These agencies include supervisors, treatment providers, polygraph examiners, victim advocates, and other members of the law enforcement community such as law enforcement officers, defense attorneys, judges, prosecutors, social workers, offenders' families, as well as politicians, state legislators, governors and corrections departments (CSOM, 2000; English, 1998; English et al., 1996; Jenuwine, Simmons, and Swies, 2003; Lane Council of Governments, 2003).

The parole or probation officer provides external controls to the sex offender, making attending treatment a mandate, or a condition of parole or probation. The treatment provider gains helpful input from the officer, not having to depend upon the word of a sex offender. Sex offenders generally have found it most helpful to lie or be deceitful, and having external information in treatment is the only successful way to treat this population. The polygraph examiner, providing other useful information to the treatment provider, supervising agent, and victim advocate, communicates with them all. The diamond of communication ensures that the sex offender will receive the best treatment and that the agent will have the most updated information available. Most sex offenders are extremely secretive, and commit most crimes through this avenue. Only by these measures will potential sex crimes be detected before they can occur. In addition, the sex offender will not be able to "split" or "pit" the team against one another with regular communication and collaboration (English et al., 1996).

**III. Multiple accountability tools to contain the offender.** Sex offenders may have multiple paraphilias (deviant sex-related behaviors). Some abusers begin offending at an

early age, and may have a difficult time not continuing their deviant behaviors. Clearly defined surveillance tactics are necessary for a containment approach to supervision (English, 1998). This plan will need:

**Specialized sex offender supervision:** Specialized training, regular training (NIC, 1998, Governor's Commission, State of MN, 2005), and reduced caseload size (usually 25-35) are the main points of a specialized sex offender case load.

Because the field of sex offender management is continually evolving, ongoing training is strongly suggested as a regular component of specialized sex offender practices (i.e., CSOM 2004, 2007).

A specialized case load is comprised of only sex offenders. Supervision plans should be individualized for each offender and the offender's particular risks. Access to victims should be blocked via restriction of activities that would be identified in the offender's supervision plan. An increased number of random home and office visits, including standards for the frequency of home visits and in-person contacts (Governor's Commission, State of MN, 2005), and increased collateral visits including maintaining regular contact with the offender's family, friends, and other community members to identify any risk factors for re-offending help contain these high risk offenders compared to other parolees or probationers. In addition, home visits should be specific, with agents trained to detect specialized paraphernalia or other items associated with increased risk of sexual offending (English et al., 1999; Governor's Commission, State of MN, 2005). Standards of supervision include increased number of visits to those sex offenders with higher level of risk and less visits for those sex offenders with lower levels of risk (i.e., DOC VA, 2002). All contacts should be carefully documented by the parole or probation officer (CSOM, 2004).

**Risk Assessment:** As all sex offenders are not the same, it is necessary to make some sort of assessment of dangerousness to help the supervisor in knowing how much surveillance will be necessary. Risk should be assessed with a reliable and valid assessment instrument, specific to sexual offenders. The Static-99 is a risk assessment instrument that has been shown to have a recognized ability to predict sexual recidivism (e.g., Barbaree, Seto, Langton, and Peacock, 2001; Hanson, Harris, Scott, and Helmus, 2007). The Static-99 utilizes ten static (do not change over time) variables of risk (such as number of previous sexual offenses and age). Other risk assessment instruments such as the STABLE – 2007 and ACUTE – 2007 are promising new instruments that can assess stable dynamic risk factors (might change over months or years) and acute dynamic risk factors (might change in days or weeks) for a more accurate assessment of risk (Hanson et al., 2007). A sex offender assessed as high risk on the Static-99 is not likely to change their status with the addition of dynamic risk factors, even though the addition of dynamic variables was found to add predictive power over static risk factors alone (Hanson et al., 2007). California has selected the Static-99 as the risk assessment instrument for assessing adult males.

It is important to assess level of risk as early as pre-release from prison, because higher risk offenders benefit more from higher intensity supervision services than do offenders with a lower level of risk (Andrews & Bonta, 2003; CSOM, 2007). If there are a fewer number of treatment slots than the total number of sex offenders, than the higher risk sex offenders must be placed in sex offender treatment (Andrews & Bonta, 2003; CSOM, 2007). A special evaluation prior to release from prison to evaluate supervision and treatment needs for sexual offenders is recommended for sexual offenders who have not received treatment while in a prison setting (ATSA, 2004).

The role of the parole or probation officer is to assess acute dynamic risk at every face-to-face contact. If these or other acute risk factors are present, the officer must be prepared to take action to adjust the conditions of supervision, increase contacts, or refer the offender to services or programs to avoid offending behavior. Main acute dynamic risk factors include (CSOM, 2007; Hanson et al., 2007):

- Negative mood, primarily anger;
- Substance abuse;
- Sexual preoccupation;
- Victim access; and
- Non-compliance with supervision.

## TOOLS OF SUPERVISION

**Special Conditions of Probation or Parole:** Special employment conditions should be enforced in an individualized case plan for each sex offender, including the parole or probation officer's attention to use of internet, travel in the community, on-the-job contact with minors, and adult supervision at work (CSOM, 2002; 2004). In addition, special conditions regarding contact with minors, possession of technology (such as cameras), computer/internet restrictions, alcohol and drug testing, social and sexual behavior, driving and travel, victim contact and restitution, and curfew should be considered in the case plan by assessing the sex offender's individual needs and risk (Lane Council of Governments, 2003).

**Sex Offender Specific Treatment:** Sex offenders should be mandated to participate in approved treatment programs with defined treatment standards as a condition of probation or parole (English et al., 1999; Governor's Commission, State of MN, 2005). Treatment providers should meet approved requirements as set by the contracting agency (i.e., probation or parole).

**Polygraph Examinations:** Although controversial regarding conviction for new sex offenses (English et al., 1996), according to new guidelines (APA, 2007), the polygraph can be an effective tool in monitoring the supervision of sex offenders. The American Polygraph Association recognizes that the polygraph examiner's role in the Containment Model of sex offender supervision is to "verify or refute information provided by the



offender and to serve as a deterrence tool” (APA, 2007, p. 177). Polygraph examiners must be specially trained in the area of sex offenders, have certain qualifications, and follow specified guidelines (APA, 2007; CSOM, 2004; Kokish, 2003).

The polygraph can help monitor the sex offender’s current behavior in the community and whether he is currently engaging in high risk behaviors, such as having contact with minors. The use of the polygraph, when a trained examiner is utilized, has shown to yield much more information than if this tool is not used (APA, 2007; English et al., 1996; English, Jones, and Patrick, 2002; Governor’s Commission, State of MN, 2005).

**Use of Plethysmography:** This is an assessment of the offender’s deviant arousal patterns using a measure of penile engorgement to visual stimuli (i.e., pictures that include minors). A treatment provider, if contracted to use this method, can assess the offender with this device (English et al., 1996; NIC, 1998). If a deviant arousal pattern in response to certain sexual stimuli is detected, the treatment plan can include a behavioral conditioning program to help the offender desensitize himself to deviant stimuli (such as children). The Ninth Circuit has held it can only be used if a hearing as to the appropriateness of the plethysmograph for a specific offender has been approved. Several courts and jurisdictions have also supported use of viewing time measures of sexual interest.

**Short-term Sanctions:** These sanctions can include short term mental health and jail terms, halfway house confinement, and fines (English et al., 1998; Little Hoover Commission, 2003).

**Community Notification:** Alerting the community of the presence and the address of a sex offender acts as a containment tool of supervision. Effective containment strategies help to limit an offender’s contact with potential victims. By alerting the community to the location of a sex offender, neighborhood watch groups and others are able to monitor the offender’s behavior, be aware of the offender’s movements and quickly act if the offender exhibits any concerning or “red flag” actions that require the probation or parole agent to tighten controls. Community Notification also continues to work as a potential tool even after the offender is off of formal supervision. Concerned citizens can then notify law enforcement of any potential threats to safety.

**Global Positioning Systems (GPS) Tracking or Electronic Monitoring (EM):**

Two of the most commonly used types of electronic monitoring are radio frequency and GPS. GPS can be active or passive.

**Radio Frequency (RF):** Consists of a monitoring unit attached to the home phone and an ankle bracelet attached to the offender. Radio frequency devices monitor and store information about the offender’s arrival and departure to and from the home and other specified places. Therefore, this system is useful for monitoring curfew compliance. Some counties use this type of unit.



*\*Pros:*

- Inexpensive;
- Low level of supervision;
- Low level of technology required;
- Information collected is easy to review;
- Useful for monitoring curfew compliance.

*\*Cons:*

- Home phone required;
- Little information collected and available.

**Global Positioning System (GPS):** Consists of a monitoring unit carried with the offender at all times outside of the home, and an ankle bracelet, as in the RF system, but it also includes a home charging and storage base which records and transmits information such as time and date, path of travel through points on a map, violations of the exclusion zone (area determined to be out-of-bounds for an offender to travel based on probation/parole requirements), and tampering, removal, stretching, or low charge of the monitor/bracelet (The Sex Offender Supervision and Community Notification Study Committee, 2005).

**Passive GPS Units:** Stores the information obtained by the monitoring unit and bracelet until the offender plugs the unit into the base when returning home. All of the recorded information is then sent to the supervising officer (The Sex Offender Supervision and Community Notification Study Committee, 2005). Non-HRSO sex offenders on parole and some counties are using this type of unit.

*\*Pros:*

- Sets up inclusion zones (where the offender should be, i.e., home, work);
- Exclusion zones (prior victims' houses, parks, schools) to produce alerts to officers; and
- Officers only receive the information once per day, and thus will not be on-call 24 hours per day.

*\*Cons:*

- Only reports once per day, or when the offender plugs the monitoring unit into the base;
- Costs more than RF monitoring;
- Must have an electrical outlet to plug the base into outlet for recharge and information transmittal;
- Offenders must carry and take care of the equipment for proper utility.

**Active GPS Units:** Records information every 1-10 seconds and transmits the information every few minutes to the supervising officer or operations center (Report on New Jersey's GPS Monitoring of Sex Offenders, 2007). Active GPS units require a

cellular phone for information transmittal. All HRSO sex offenders on parole either are or will be on this type of unit.

*\*Pros:*

- Officer is alerted almost immediately for a violation;
- Sets up inclusion zones (where the offender should be, i.e., home, work); and
- Exclusion zones (prior victims' houses, parks, schools) to produce alerts to officers;
- Functions as a containment tool;
- Officers can see specific activity patterns;
- The device may serve to deter offenders;
- Gives officers the ability to prove or rule out the offenders being in the area at the time a crime was committed;
- Helps build trust between offender and officer;
- Allows the officer to verify offender is at home prior to making a home visit;
- Allows officers to follow-up with public complaints about the offenders.

*\*Cons:*

- Requires a cellular phone and a signal with 3 satellites;
- Does not obtain a signal in some areas such as those with mountainous terrain, tunnels, large buildings, warehouses, or cars (if not placed in the window, as required);
- Officers are alerted if the battery is running low or for failure of the device, which is time consuming for the officers;
- Officer burnout from constant on-call status;
- Costs more than passive GPS and RF monitoring;
- Must have an electrical outlet to plug the base into an outlet to recharge;
- Offenders must carry and take care of equipment for proper utility;
- Sometimes officers are required to go to the offender's house at night, which may place officers in unsafe conditions without backup from armed officers when responding to alert pages;
- Significantly more time is put into supervising the offender;
- Some officers feel they are working more with the equipment than the offenders;
- Some judges and district attorneys have been reluctant to accept or deny evidence from GPS tracking;
- Not all criminal justice agencies have information about how GPS works and its abilities and limitations;
- Offenders may be denied or terminated from employment due to the GPS equipment;
- Sex offender group therapy can end up being a sounding board for equipment gripes.

IV. **Consistent, Informed Policy.** One of the outcomes of the communication is that with legislative and interdepartmental collaboration, policies can be reviewed, discussed, and implemented regarding sex offenders. Having treatment providers, specialized agents, and policy makers all working together can implement consistent and well-informed policy decisions (CSOM CAP, 2004; CSOM, 2000; English, 1998).

V. **Quality Control Measures.** All professionals involved in the Containment Model of supervision must be held accountable. It is important that there are monetary resources available to ensure quality program monitoring and evaluation so that professional standards of practice are upheld.

## CONCLUSION OF WHAT WORKS IN SUPERVISION

By following the standards reviewed above, it is concluded that agencies that adhere to the principles of the Containment Model will reduce sexual offending in the community. It is recommended that all agencies, to the amount possible, try to follow the standards set forth in the literature, although this needs to be tailored to the needs of each community (English et al., 1999). At times, certain prohibitions such as cost, patterns of communication, or legal precedent can preclude all or some of the standards from being utilized on a consistent basis. However, it is the opinion of most specialists in the field that it is advisable to try to follow the Containment Model as much as feasible (i.e., Governor's Commission, State of MN, 2005, CSOM, 2004).


## CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

The Division of Adult Parole Operations (DAPO) established a pilot Sex Offender Containment Program in 1990 and includes some of the elements of the "What Works" Containment Model.

There are currently 3,011 High Risk Sex Offenders under state parole supervision as of January 21, 2008. Since its inception in 1990, the specialized caseload pilot program has evolved in the past 17 years to include 51 High Risk Sex Offender (HRSO) caseloads throughout the state. To qualify as a HRSO, a newly paroling sex offender must receive a score of 4 or higher on the Static-99.

An older instrument was previously used to determine risk, and existing HRSO's are being tested with the Static-99 (all will eventually have a Static-99 score in their field files) to determine risk level and placement on a specialized caseload. Per CDCR memo dated August 21, 2007,

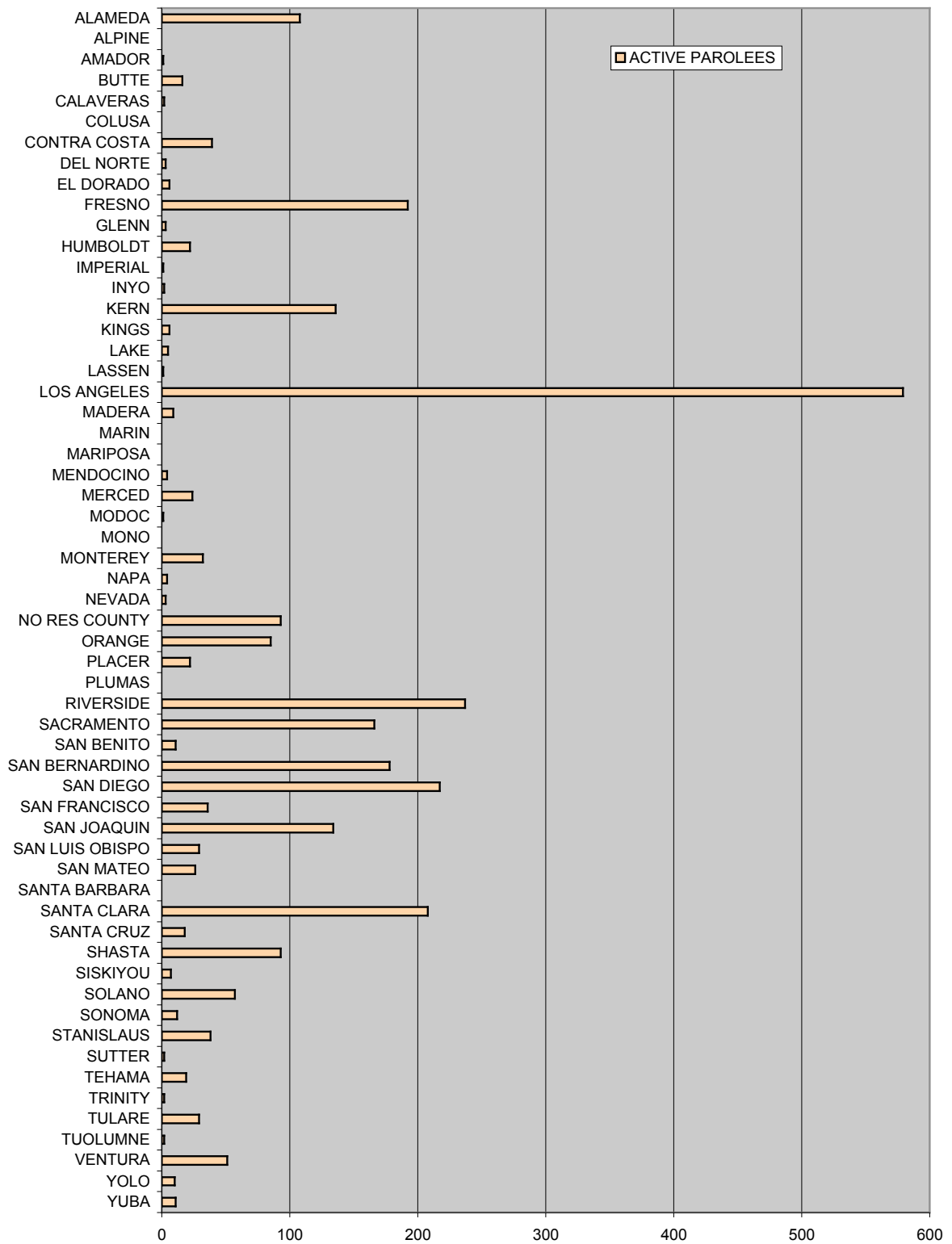
*"The results of the latter process shall override the classification of an offender previously assessed via the alternative assessment tool. For example, if a parolee is initially classified as an HRSO utilizing the alternative assessment tool, and the results of*



*the Static-99 and application of Policy 07-32 indicate the offender is not an HRSO, the parolee shall be downgraded as appropriate, and vice versa.”*

Per the Penal Code, Article 1.5, Section 3010, CDCR “may utilize continuous electronic monitoring (Global Positioning System) to electronically monitor the whereabouts of persons on parole”. HRSO parolees are tracked with active GPS units and are placed on reduced caseloads of 20:1. Sex offenders determined to be lower risk are placed on High Service or non-HRSO caseloads, are tracked with passive GPS units, and are on a caseload ratio of 40:1. The cost of supervising a sex offender parolee (not on GPS tracking) is approximately \$4930.00 per year as of January, 2008 according to CDCR. See Table 5-2 for a breakdown of number of supervised HRSOs on active parole per county as of January, 2008.

**Chart 5-3.**



Agents who supervise HRSOs have increased face to face contacts. HRSOs are supervised at the same level as Second Strikers and Enhanced Outpatient Parolees (the extremely mentally ill). The Initial Interview is completed no later than the third working day following release, and the parole agent has two or more face to face contacts per month, four in the parolee's residence per quarter. The agent has two or more collateral contacts per month; one contact can be the treatment provider. One quarterly contact must be with someone with significant knowledge of the parolee. Alcohol and narcotics urinalysis occurs one time per month. The first case review occurs after the first 30 days of parole, and every 90 days thereafter. Most parole units have monthly law enforcement profile meetings where new sex offenders are introduced and discussed. Some smaller units do not have these meetings. The exact number of units who have active HRSO caseloads and do not have these meetings was unavailable.

In June 2005, the CDCR Division of Adult Parole Operations (DAPO) implemented a pilot program statewide utilizing 500 units of satellite-based Global Positioning Systems (GPS) to monitor and track HRSO parolees. As a public safety policy decision, CDCR has decided to place all PC 290 registrant parolees on some form of GPS (active or passive) following the passage of Jessica's Law even if they do not qualify for GPS subject to the language of Jessica's Law. Currently, there are 3,050 parolees, or 33% of sex offender parolees on active or passive GPS. According to CDCR, as of January 2008, there are 2,326 HRSOs on active GPS and 939 sex offenders (non-HRSO) on passive GPS supervision throughout the state. The program for passive GPS supervision began in July 2007.

Mandated enforcement of Jessica's Law has shifted CDCR training focus from sex offender management to a focus on residency requirements and GPS utilization. Agents who monitor sex offenders with GPS devices get additional training. According to CDCR, these agents receive training in three phases. Phase I consists of a 24-hour training that takes place over three days. Then the agents go into the field and utilizes the knowledge they have obtained before returning for 16 additional hours of training in Phase II six weeks later. Phase III occurs eight weeks after Phase II and also includes 16 hours of training. This is called the "building block approach" to learning GPS, as it takes agents about six to eight months to really learn how to be fully proficient in the new technology. The agents must first learn how to read the maps and see how the parolees are moving around in the community. The straps of the GPS devices must be placed and put on correctly, or the information that is sent to the agent is incorrect. There is so much to learn that if the training were done all at once it would be information "overload", and the agents would not be able to discern which of the data coming in was important to respond to, and which to ignore.

When properly trained with the GPS technology, it is a useful and important tool for an experienced agent. According to CDCR, the vendor has provided statewide training updates at convenient times as the technology (either software or hardware) is updated. If the training was able to be accomplished in two hour intervals, agents were able to take

the training through their computers, avoiding expensive travel fees. When the training is longer and more demanding of attention, it is delivered via the classroom setting. False tampers, although an industry-wide problem, were minimally experienced by DAPO GPS sex offender specialized agents from time to time. As projected by CDCR, all HRSO sex offenders should be fitted with active GPS tracking devices by April 2008, and all non-HRSO PC 290 sex offenders on parole were projected to be fitted with passive GPS tracking devices by June 2009.

Sex offender treatment is mandated for HRSO parolees. In the past, treatment contracts have not had enough openings in enough locations to treat all HRSO parolees (Nieto & Jung, 2006) and some parolees attend monthly relapse prevention groups at Parole Outpatient Clinics. The Relapse Prevention groups are not available at all Parole units, and there is no specific program followed uniformly for these groups. At the current time, there are four contracts out for bid (one for each of the four parole regions), due to prospective treatment bidders February 28, 2008. The bid date has been changed several times. The bid contract for Region 1 states that services need to be provided for up to 750 HRSOs. The bid contract for Region 2 states that services need to be provided for up to 790 HRSOs. The bid contract for Region 3 states that services need to be provided for up to 534 HRSOs. The bid contract for Region 4 states that services need to be provided for up to 667 HRSOs. Each region is responsible for oversight of the contract. The treatment contract takes precedence over POC services: Where possible, the HRSO will attend treatment as provided through the contracted provider. Each contract provides for treatment in numerous locations in regions such as 1, where there is a wide territory covered. The bidder must provide for services in at least eight (8) of eleven (11) locations.

The treatment contract provides “evidence-based treatment services designed to reduce parolee criminal behavior through the application of structured outpatient sex offender treatment services”, to include an initial intake screening, assessment services, individual and group treatment, one polygraph assessment (a second one only if deemed necessary), ongoing risk assessment, final evaluation, monthly communication with the DAPO Program manager “to review progress and performance”, and maintaining written communication with the Agent of Record and the parolee. In addition, the contractor is to ensure that “the program is staffed with qualified personnel to facilitate contracted treatment goals”.

The contracted program director must have two to five years previous experience, depending on relevance. The contracted treatment provider must be an ATSA and CCOSO member (must join at least five days prior to commencement of services and remain active throughout the contract). The contractor must actively supervise all treatment staff, who must be licensed. The polygraph examiner must be certified by the California Association of Polygraph Examiners (CAPE), must have 40 hours of specialized training in “Post Conviction Sex Offender Polygraph Examinations” recognized and approved by CAPE, and must have 20 hours of approved continuing education every two years.

## **SEXUALLY VIOLENT PREDATORS (SVPs)**

Sexually Violent Predators (SVPs) are civil commitments (WIC 6600) to the Department of Mental Health (DMH) and refer to sex offenders at particularly high risk of offending if placed in the community. The Sexual Predator Punishment and Control Act (Jessica's Law) augment current laws for the commitment and control of sex offenders. In this effort, the Act made numerous Penal Code amendments to sex offender sentencing enhancements and parole periods, fines, violent felony criteria, sex offender parole eligibility, regulations, residential requirements and monitoring. These Penal Code changes add 35 qualifying crimes, impose harsher penalties and more extensive supervision and broaden the definition of SVP criteria to include one victim offenders rather than requiring two victims. Longer sentences and parole periods provide for greater public safety by continued monitoring of sex offenders and increased supervision and structure.

All SVP evaluations are initiated by CDCR. Referrals increased from 50 a month to an average of 700 a month in the one year period following the passage of this law. Since implementation the DMH health has received 10,247 referrals. This number represents more than the total number of referrals in the preceding ten years.

All of these Penal Code changes indirectly affect the DMH's Sex Offender Commitment Program (SOCP) by lengthening sentencing periods for sex offenders who will eventually be referred for Sexually Violent Predatory (SVP) screening and evaluation which could result in indeterminate commitment to a state hospital. The cost of SVP evaluations and court testimony also increased with the increase in referrals to \$27M in 2007-2008. This is an increase of approximately \$24M.

## **CALIFORNIA PROBATION**

There are a variety of procedures and methods of supervision in California's counties statewide. Some counties are making excellent strides in adhering to many elements of the "what works" Containment Model, while others combine some elements and not others. There is a lack of information regarding the mode of operation for many counties. The Chief Probation Officer's Annual Survey (2007) indicated a variety of responses and methods to supervising sex offenders in counties statewide.

Only 50 of the 58 California counties responded to the Chief Probation Officers Committee's Annual Survey 2006-2007, cited in this report as a source for county data, with some of the largest counties not providing input. There are approximately 7,000 sex offenders on supervised county probation. The resources available to each county vary widely.

According to the results of the survey, 37 county departments reported that they had specialized sex offender caseloads. Of the supervised sex offenders on probation, 92% are on specialized caseloads. Each county has a different ratio of probation officer to sex



offender. Los Angeles County has a ratio of 45:1, and San Joaquin County reported that they have an average caseload size of 100. However, data was not available regarding ratio of agent to sex offender for the rest of the counties. The comments available from the counties indicated that many counties with high numbers of sex offenders felt that there were not enough specialized agents to work with the high risk sex offenders. Few counties utilized risk assessment instruments as a means of placing sex offenders on specialized caseloads.

Training opportunities vary in each county according to available resources. Some counties obtain training through other agencies or through professional organizations, such as the California Sexual Assault Investigators Association (CSAIA) and the California Coalition on Sexual Offending (CCOSO). One supervising officer stated that specialized training is needed, especially in forensic searches, offender typology, treatment dynamics, and the use of computer technology.

Most counties do not use GPS units to monitor sex offenders. Of the counties answering the survey, six counties reported having GPS units available: Butte, Orange, San Bernadino, San Diego, San Louis Obispo, and Stanislaus counties are utilizing GPS devices at this time. It is unknown how many offenders are being tracked by GPS devices. Some other counties who did not respond to the survey may also be using these devices.

In addition, most California county probation departments do not use polygraph examinations as a tool to monitor sex offenders. Many departments have difficulty with the cost involved and feel that having more probation officers is a better use of resources than using polygraph exams. In addition, there are disagreements among probation, prosecution, and public and private defense attorneys regarding the legality of using both voluntary and court-ordered polygraph exams as a tool in community supervision of sex offenders (Blasingame, 1998). Statewide guidelines regarding the use of polygraph exams as well as qualifications and training for polygraph examiners would enable polygraph exams to be used as a tool in sex offender management across all counties. In the 2007 California Sex Offender Management Task Force (CASOM) survey of 14 counties, many of these counties indicated the use of the Containment Model despite the fact that they do not use polygraph testing in the management of their sexual offenders on probation.

**“Model” Counties:** San Diego County implemented the Containment Model and reviewed their progress as part of the San Diego Community Sex Offender Management Implementation grant (Misch, Burke, Keaton and Pennell, 2003). Their review found that their probation officers were already meeting the standards of the Containment Model as defined by increased supervision standards, timelines, and collaboration with treatment providers and polygraph examiners. The review served as a mechanism for the county to identify areas to help train their probation officers so that they would meet all standards of the Containment Model of sex offender supervision. San Francisco County also implemented the Containment Model based on a grant from Center for Sex Offender

Management (CSOM) and both counties adhere to this model according to CSOM standards and practices of sex offender supervision.

## **COST OF GPS TRACKING**

***Note: UC Irvine is currently working on a definitive cost for GPS tracking for the State of California.***

GPS tracking equipment is leased at a cost of \$8.75 per day for active units and \$5 per day for passive units. The cost of one Parole Agent I salary per month is \$7437.00. The ratio of Parole Agents monitoring sex offenders on active GPS is 20:1. The ratio of offenders on passive GPS to Parole Agents is 40:1. The state has 2,189 sex offenders on active GPS supervision and 520 sex offenders on passive GPS supervision at this time. To supervise the parolees on active GPS monitoring, 109.45 parole agents are needed. Only 13 parole agents are needed to monitor sex offenders wearing passive GPS units at this time. The cost of GPS unit rental (active and passive) per day is \$21,753.75. The cost of GPS unit rental (active and passive) annually is \$7,940,118.75.

The total agent cost for both passive and active GPS tracking monthly (not counting benefits or annual leave time) is estimated at \$910,660.65, with an estimated annual cost of \$10,927,927.80. Per Agent Stone, overtime estimates for active GPS can be made at this time. He estimated that each Parole Agent I supervising active GPS sex offenders had an average of 20 hours of overtime per month. He was unable to estimate overtime for Parole Agents supervising sex offenders wearing passive GPS devices, as this program just began July 2007. Monthly estimated parole agent overtime costs are \$90,442.19. Annual estimated parole agent overtime costs are \$1,085,393.76. The total annual parole agent costs of GPS tracking are \$12,013,321.56.

***Using numbers provided in December 2007, the total estimated annual cost of GPS tracking for CDCR is \$19,953,440.13.***

This estimate does not include supervisory staff, administrative staff, or potential overtime costs for parole agents supervising sex offenders with passive GPS tracking units. Therefore, this should be considered a preliminary estimate that underestimates total annual cost. The next report should have a more complete and correct annual cost estimate, particularly with more units in place.

Because of a lack of data, it is not possible to estimate annual cost of GPS tracking for all California counties at this time.

## **Summary of California's Strengths in Supervision of Sex Offenders**

- Strides are being made in the Division of Adult Parole Operations to adhere to the Containment Model. Per Penal Code change, a widely recognized risk assessment instrument classifies high risk from low risk offenders.
- By April 2008, all HRSO parolees will be wearing active GPS tracking devices. The training program for parole agents who supervise sex offenders wearing active or passive devices appears to be thorough and takes place in three phases. Updated training is made available as changes are made to hardware or software. Specialized training on sex offending largely adhering to CSOM guidelines appears to be available in a 40-hour program upon an agent taking on a specialized caseload. Most HRSOs in larger urban areas appear to be on specialized caseloads of at least 40:1. Parole agents who supervise HRSO wearing active GPS devices carry caseloads of 20:1. However, this lower ratio still requires these agents to put in an average of 20 hours per month of overtime.
- Special efforts have been taken by CDCR to review cases that qualify for SVP screening in a timely manner despite the increased number of offenders who now qualify for review.
- There appears to be regular communication between treatment providers and parole agents, when providers are available.
- Some counties, in particular, San Diego and San Francisco, adhere to the Containment Model of supervision.
- Other counties have polygraph examiners, collaboration between treatment providers and probation officers, and specialized caseloads for sex offenders. Some training is available for probation officers in some counties.

### **Summary of California's Gaps in Supervision of Sex Offenders**

- The Division of Adult Parole Operations does not utilize polygraph examiners, which does not allow full utilization of the Containment Model. Current bids in progress have polygraph exams (one or two if approved) as part of potential treatment provider contracts.
- Training in utilization of GPS and enforcement of residency restrictions has replaced specialized sex offender management training.
- Specialized HRSO caseloads have not been utilized in smaller parole units (in more rural areas).
- Information on each county's practices is not available at this time. Many counties do not have specialized sex offender caseloads, many specialized case loads are too large, sex offender training must be sought from outside, and most counties do not utilize the polygraph exam as part of the Containment Model.
- Each county probation department appears to have different resources and methods for supervising sex offenders. One uniform model throughout the state would be the most evidence-based method of ensuring that the Containment Model was practiced in a consistent manner.
- Personnel shortages hamper manageable caseload abilities.

### **Recommendations for Future Research**

- What is needed at this time is information regarding practices and resources regarding use of the Containment Model sent to each parole unit and each of the 58 California counties. Questions could be devised regarding what is being done, what is not being done, and what are seen as impediments to practicing the Containment Model in each county and each parole unit. With more complete information, recommendations how to help each location more approximate the Containment Model can be generated.
- An assessment of supervision by local law enforcement agencies after the formal period of supervision has passed, including whether registration address compliance checks are conducted, whether community notification is utilized and to what degree registration information is verified.

## **Proposition 83 and Sex Offender Supervision**

According to Jessica's Law, all qualifying sex offenders must wear GPS units while on supervision with the state or county and then must continue on GPS tracking for their lifetime when off formal supervision. The law does not specify whether passive or active tracking devices should be used. Any monitoring that must take place following formal supervision must continue with either local law enforcement/multi-jurisdictional task forces/state task forces

### **Changes made by Jessica's Law**

Jessica's Law amended Penal Code Section 290.3 to direct that an amount equal to \$100 for every fine imposed by the courts on sex offenders would be directed to CDCR to defray the cost of parolee GPS supervision.

Section 3000 of the Penal Code was amended to increase the parole supervision time of specified crimes from five to ten years.

Jessica's Law added Penal Code Section 3000.07(b), which requires offenders to pay for the cost of GPS monitoring to CDCR, if financially able to pay.

### **Areas of Jessica's Law that have demonstrated implementation challenges or require clarification**

Penal Code Section 3000 and 6600.1(k) were amended by Jessica's Law to toll any remaining parole supervision time during the time that an individual has been found to be a Sexually Violent Predator.

- Practitioners agree that tolling supervision time is helpful but the statute needs to be clarified to toll parole time during the screening and pre-commit phase of the SVP determination process. These elements may take a significant enough amount of time to exhaust an individual's remaining parole time before commitment even begins.

Jessica's Law added Penal Code Section 300.07(a) to require that individuals convicted of specified crimes be monitored by GPS, while on parole.

- Currently 2,337 HRSO parolees are being monitored with active GPS units, and 1,002 parolees are being monitored with passive units. Implementation of parolee GPS was initially delayed due to staffing and equipment shortfalls, but CDCR has reported that it is on track to have sex offender parolees on GPS monitoring by the end of 2009.

Penal Code Section 3004 (b) was added to require that offenders convicted of specified crimes be monitored by GPS for life.

- Neither state parole nor local probation departments have determined that they have the jurisdiction to monitor post-supervision GPS. Jessica's Law does not identify what agency or units of government are responsible for this activity.
- California is the first state in the United States to use GPS monitoring post-supervision. The use of GPS in this manner, while potentially helpful, is limited largely to enforcement of residency restrictions, enforcement of sex offender registration requirements specified in Penal Code Section 290, and potential crime scene correlation.
- Neither state parole nor local governments (probation departments or law enforcement agencies) have been funded to take on this activity. Local governments in particular, have expressed an inability to absorb the potentially substantial labor commitment and cost that post-supervision GPS monitoring may pose.
- If local governments are charged with monitoring post-supervision GPS there is a need to ensure that local acquisitions of technology are interoperable between jurisdictions and that information is shared statewide. There are no statewide standards to guide how individual jurisdictions would conduct post-supervision monitoring such as frequency of data downloads, what information constitutes an alarm, and what information is shared related to crime scene correlation.
- Jessica's Law does not outline a penalty for offenders who do not comply with post-supervision GPS requirements.
- It is unclear what liability, if any, attaches to post-supervision monitoring authorities related to an offender's activities, or potential activities.

Penal Code Section 3004(c) was added to require offenders to pay CDCR for costs associated with GPS monitoring, if financially able.

- If local governments are responsible for the post-supervision monitoring of offenders, payment to CDCR is unworkable.

An abstract graphic design featuring a large, bold black number '6' in the upper right quadrant. The design is composed of various rectangular blocks in shades of orange and white. A large white rectangle is positioned to the left of the '6'. Below this, there are several smaller orange and white blocks. At the bottom, a horizontal bar is divided into two sections: a light orange section on the left and a darker orange section on the right containing the word 'HOUSING' in white capital letters.

# 6

**HOUSING**



## **INTRODUCTION**

Housing issues for convicted sex offenders has traditionally been a problem. No one wants a sex offender for a next door neighbor, or even in their neighborhood. This is especially true for families with children. As a result, housing options are usually more limited for sex offenders than any other type of offender.

Since the passage of Megan's Law and community notification procedures, sex offender housing became even more difficult to find and keep. The proliferation of websites on the internet listing street addresses and pictures of offenders has resulted in many landlords and rental property owners becoming more hesitant to rent to sex offenders. Owners of rental property are very concerned that if they knowingly rent to a sex offender, their may be civil liability issues if they were to re-offend in the proximity of the rental property. In many instances, landlords will look for any excuse to evict a known sex offender.

With the passage of Jessica's Law in 2006, housing options became more limited. Many sex offenders have utilized the home of their families as transitional housing until they were able to secure a more independent living situation. Now, many of these homes are located in areas that are subject to residency restrictions, and are no longer an option. In more and more cases, recently released sex offenders are registering as transient due to the unavailability of a suitable housing situation.

Presented in this section are findings from studies of issues related to sex offender housing and community safety. This report will review the current status of sex offender housing in California, the research on the efficacy of residency restrictions to increased community safety, and the effects of residency restrictions on offenders. This section will conclude with gaps in information and recommendations regarding the need for more research.

## **TOPICS IN HOUSING OF SEX OFFENDERS**

- Current status of sex offender housing in California;
- Effects on community safety by providing suitable and stable housing for offenders;
- Research on the effects of residency restrictions; and
- Current research on whether proximity of the sex offender's residence to where children regularly congregate effects reoffending.

### **Housing of Sex Offenders in California: A Literature Review**

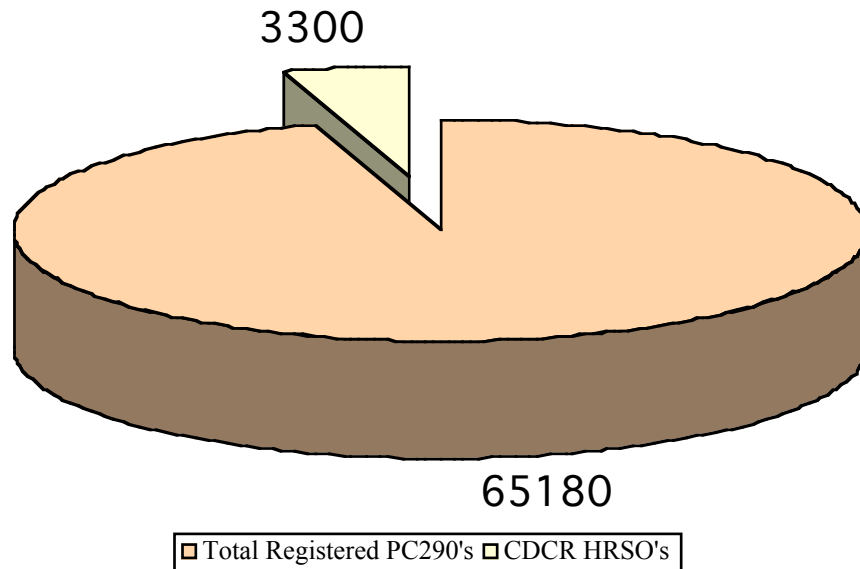
## **CURRENT STATUS OF SEX OFFEDER HOUSING IN CALIFORNIA**

The fundamental statutory requirement for all parolees is that a parolee shall be returned to the county that was the parolee's last legal residence (Cal. Pen. Code, § 3003, subd.

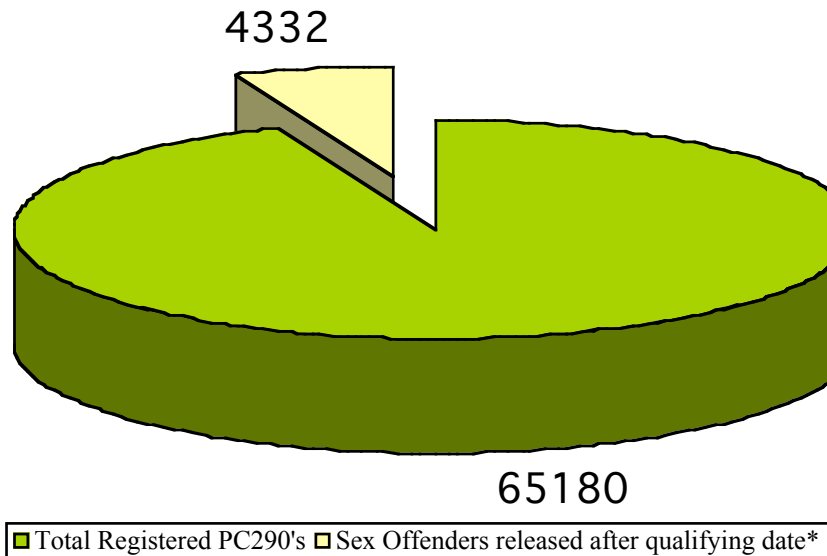


(a). Subdivision (b) of section 3003 does provide that, “in the best interest of the public,” the parolee may be returned to another county. In making such a decision, the paroling authority must give the greatest weight to the protection of the victim and the safety of the community.

**Chart 6-1. Registered PC290's affected by AB113 (AB113 requires specified high risk sex offenders on CDCR Parole to not reside within ½ mile of schools.)**



**Chart 6-2. Registered PC290's who are subject to the provisions of Jessica's Law**



\*Unclear, using CDCR's definition

The possibility of an offender registering as transient has always been available for parolees. Parolees who declare themselves as transient had to comply with different requirements. “Transient” or “homeless” was defined in CDCR Policy Number 07-36 as “a person who has no residence.” “Residence” was further defined as an address where the person “regularly resides, regardless of the number of days or nights spent there.” However, the location must have a street address. Therefore, a parolee is transient if he is living on a park bench or under a bridge. Transients were required to contact their parole agent daily via telephone or in person. Once per week, they must report in person to the Parole Unit.

Neither the state nor local levels have any policy or procedure to locate suitable housing for sex offenders (California Sex Offender Management Task Force, 2007). No transitional housing is provided by either the state or local jurisdictions. Housing assistance is available only for juvenile offenders. Some emergency housing funds are available at the parole unit level. Although CDCR has established HRSO housing coordinators to assist offenders in the identification of compliant housing, these efforts are hampered by a lack of acceptable housing options in urban areas. Because the number of compliant housing is finite, efforts by probation authorities would also be limited.

Specific restrictions limiting the housing options for sex offenders are found in three statutes. Each statute is directed at a different classification of sex offender: (1) high risk, (2) sexual violent predators, and (3) Penal Code section 290 registrants.

Penal Code section 3003, subdivision (g) prohibits high risk sex offenders from residing within one-half mile of any public or private school, grades K-12. This prohibition applied only to those who were convicted of violating either Penal Code sections 288 (Lewd and Lascivious Acts) or 288.5 (Continuous Sexual Abuse of a Child).

Under the Sexually Violent Predator Act (Welf. & Inst., § 6600, et. sec.), sexually violent predators are prohibited from residing within one-half mile of any public or private school, grades K-12. In addition to being a sexual violent predator, the offender must either had (1) previously been convicted of a violation of Section 288.5 or subdivisions (a), (b), or (c)(1) of Section 288 or (2) a court has found that the person has a history of improper sexual conduct with children.

Under the Sexual Predator Punishment and Control Act: Jessica's Law (Pen. Code, § 3003.5), residency restrictions were extended to any sex offender required to register under Penal Code section 290. Jessica’s Law prohibits 290 registrants from residing “... within 2000 feet of any public or private school, or park where children regularly gather.” The law permits municipal jurisdictions to enact local ordinances that further restrict the residency of 290 registrants. In addition, the restriction on residency also prohibits any parolee subject to registration under Penal Code section 290 from residing in any single family dwelling with another 290 registrant. An exception is provided for persons legally related by blood, marriage, or adoption to the parolee. This section states that a “single

family dwelling’ shall not include a residential facility which serves six or fewer persons.”

Prior to the enactment of Jessica’s Law, the California Department of Corrections and Rehabilitation issued a policy instructing parole agents to mail a copy of a letter to every active sex offender assigned to a parole unit (CDCR Policy No. 0-27, Oct. 20, 2006). The letter advised parolees that they may be required to move beyond 2,000 feet of any public or private school, or park where children regularly congregate.

In a subsequent memo, the California Department of Corrections and Rehabilitation established a procedure for implementing Jessica’s Law (CDCR Policy No. 07-36, Aug. 17, 2007). The memorandum directed unit supervisors to locate the current listing of all public and private schools and parks within their communities. Parole agents were then instructed to serve all affected parolees with a “Modified Condition(s) of Parole Addendum” (MCOPA) and/or a Notice to Comply instructional letter. The MCOPA and Notice to Comply advised the affected parolees of Jessica’s Law. Parolees were given 45 days after service to comply. Parole agents were to advise affected parolees that non-compliance would result in arrest and referral to the Board of Parole Hearings. Parole agents were to utilize a Global Positioning System (GPS) device to measure the proximity of the primary entrance of the affected parolee’s residence from the exterior boundary of the prohibited school or park. Parole agents were to consider any parolee who absconds from parole supervision to avoid compliance with Jessica’s law as a Parolee-At-Large (PAL) and to request a warrant.

As mentioned above, Jessica’s Law permits local jurisdictions to enact ordinances restricting sex offender residency. Over 400 municipalities throughout the United States have passed local housing restrictions (Nieto & Jung, 2006). However, in the State of California no agency has the responsibility to track all local ordinances and local governments are not compelled to disclose the passage of ordinances. For example, Sacramento County enacted an ordinance prohibiting sex offenders from loitering within 300 feet of any library, daycare center, skate park, public swimming pool, video arcade, youth sports facility, or bus stop.

### **Current Status of Housing Compliance:**

As of December 9, 2007, 3,884 parolees subject to Jessica’s Law were under the supervision of a parole agent in California communities. 3,166 of this population reside in compliant housing, while 718 have declared themselves transient. Of the entire population of 3,893, 13 offenders are in non-compliant housing due to a medical or psychiatric condition which requires placement in a facility within the restricted zone mandated by Jessica’s Law.

Although the 3,884 parolees represents the total number of offenders that remain in the community under parole supervision, and CDCR enforcement efforts have resulted in near full compliance with the housing challenges of Jessica’ Law, these offenders represent approximately half of the population subject to Jessica’s Law released during

this period (7516). The following chart illustrates the location of the remaining population as of December 9, 2007.

The information presented relates strictly to offenders on State parole. At present, it is not possible to gather comprehensive statistics related to the probation or post-supervision population from all 58 counties.

Status	Number	Percent
Residence Complaint	3166	41%
Declared Homeless/Transient	718	9%
Confined to Medical/Psychiatric Facility	13	<1%
In Custody/Revoked for Housing Violation	217	3%
In Federal/State/Local Custody Pending non-JL Violation	2886	38%
Parolee At Large	212	3%
Discharged from Parole	147	2%
Deceased	12	<1%
In Custody with New Term	145	4%
<b>TOTAL</b>	<b>7516</b>	<b>100%</b>

Strengths:

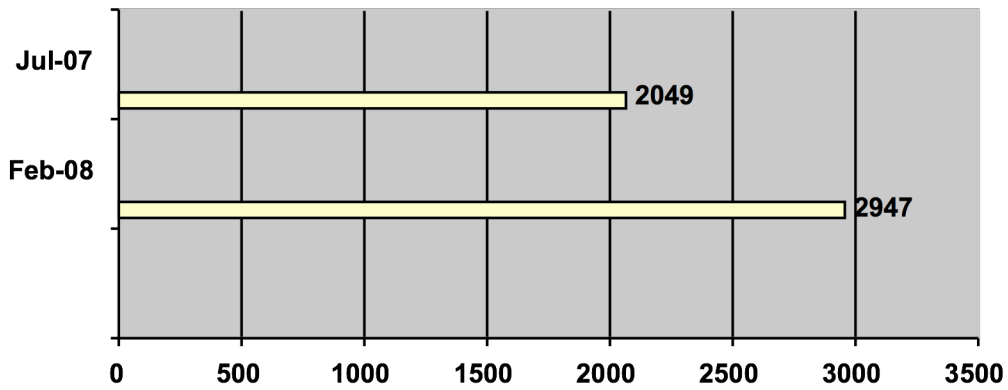
- SPPCA housing restrictions are enforced by the CDCR to the full extent provided by statute.

Gaps:

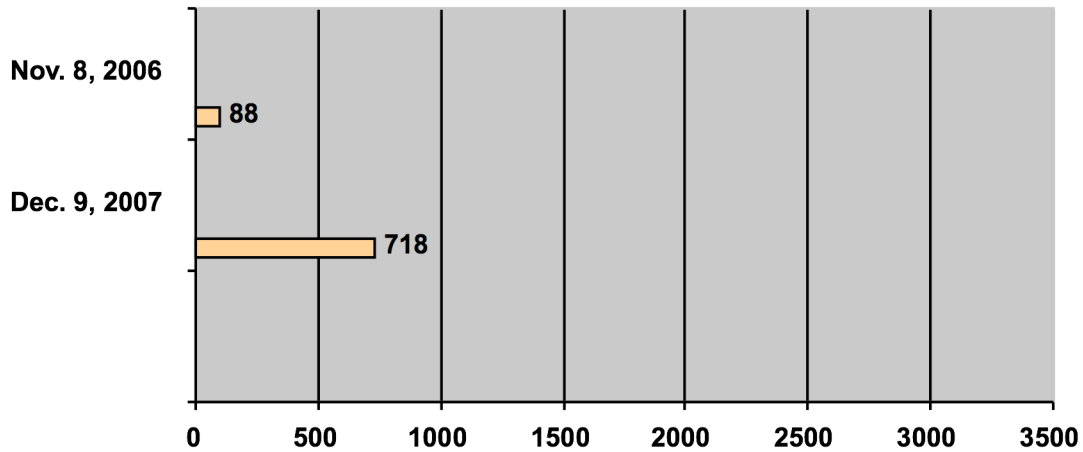
- The number of offenders that are Jessica's Law-compliant in the community equates to approximately half of the Jessica's Law population released since implementation.
- The law does not provide for housing of offenders for necessary care in medical/psychiatric facilities within the mandated exclusion zones.
- Offenders claiming "transient" are not necessarily homeless. The offender may stay sporadically in an exclusion zone while on transient status, performing functions normally associated with a residence. The law limits "where they live", not "where they go."
- Probation and post-supervision statistics are not available due to logistic reporting difficulties associated with 58 differing counties reporting processes.

The number of affected sex offenders statewide, and parolees in particular who declared themselves as transient since the implementation of Jessica's Law has increased dramatically (See Chart 6-4). As Charts 6-3, 6-4, and 6-5 illustrate, the number of declared transients has increased four-fold for parolees.

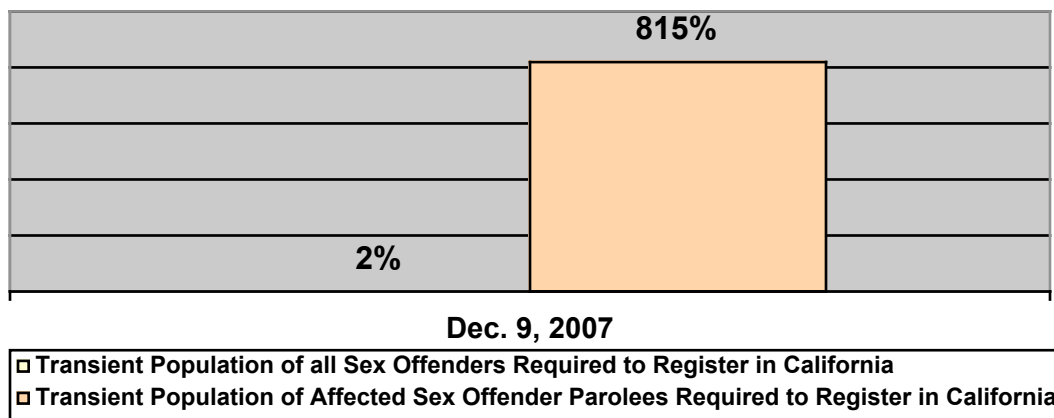
**Chart 6-3 Transient Population for all Sex Offenders Required to Register in California**



**Chart 6-4 Transient Population of Affected Sex Offender Parolees Required to Register in California**



**Chart 6-5 Percentage Change in Transient Population**



## **EFFECTS ON COMMUNITY SAFETY BY PROVIDING SUITABLE AND STABLE HOUSING FOR OFFENDERS**

Current research concludes that suitable and stable housing for sex offenders is critical to reducing recidivism and increasing community safety. In 2000, the Minnesota Department of Corrections held four focus group sessions to make findings and recommendations regarding the inability of offenders to find suitable and stable housing. Attended by officials from sixty city, county and state agencies, the focus groups concluded that offenders often have difficulty in finding suitable, stable housing because of restrictions and requirements imposed by property managers. For example, the study found, fearing liability for crimes committed by their tenants, many property managers will not rent to anyone with a prior criminal conviction. The result is that those offenders who cannot find stable housing will seek housing from anyone who will accept them. Many offenders will find housing in anti-social environments with many stressors that trigger thoughts and opportunities to commit crime. For example, some offenders will reoffend because jail or prison is seen as a better alternative to living under a bridge.

The Minnesota study reviewed two studies and concluded that a supportive housing environment reduces recidivism. Supportive housing in one study showed a decrease in re-incarceration by 50%. Another study showed an increase in employment by 15 to 19%.

The effect of housing on employment and recidivism is noteworthy. In 2001, the Virginia Criminal Sentencing Commission completed a risk assessment study of 579 paroled sex offenders over a five-year period. The commission concluded that, “Those offenders not employed or not regularly employed (employed at least 75% of the time) were found to recidivate at higher rates than offenders who experienced stable employment” (p. 8).

Minnesota has demonstrated that it is possible to find housing solutions. The 2000 Minnesota study noted that awareness of the housing problems of offenders has led to increased funding and construction of supportive housing for offenders. For instance, the McKnight and Blandin Foundations awarded \$32.5 million in grants to build 3,000 housing units in Minnesota. The Minnesota study recommended that the part of the funding for corrections should be set aside for creating supportive housing.

Residency restrictions significantly reduce the housing options available to sex offenders. In 2006, Zandbergen and Hart attempted to quantify the impact of Florida’s residency restriction on housing options for registered sex offenders. Florida prohibits registered sex offenders from residing within 1,000 feet of attractions, bus stops, daycare centers, parks and schools. Using GIS technology, Zandbergen and Hart determined that within the urban residential area for Orange County the unrestricted area was limited to 5% of the available space. This limited area of availability was mostly in low-density rural areas. Bus stops had the greatest impact followed, in descending order, by daycare centers, schools, parks and attractions.

## **RESEARCH ON THE EFFECTS OF RESIDENCY RESTRICTIONS**

Residency restrictions on sex offenders have been met with resounding support by the public (Durling, 2006.). However, very little evidence has been found to confirm or dispel whether residency restrictions increase community safety.

### **CURRENT RESEARCH ON WHETHER PROXIMITY OF THE SEX OFFENDER'S RESIDENCE TO PLACES WHERE CHILDREN REGULARLY CONGREGATE AFFECTS REOFFENDING**

Very little research has been conducted to determine whether residency restrictions increase community safety. The debate on the efficacy of residency restrictions continues.<sup>1</sup>

In contrast, in “Residential Proximity and Sex Offense Recidivism in Minnesota” (2007) a study by the Minnesota Department of Corrections, revealed no evidence that residential proximity to schools or parks affects re-offending. In fact, the opposite was true: to avoid recognition, a sex offender was more likely to seek victims from another neighborhood other than where they lived. The Minnesota study noted that, between 1997 and 1999, thirteen level three sex offenders had committed another sex offense. None of the thirteen offenders committed the sex offenses within proximity of a school or park. However, the study did find that residency restrictions forced the sex offenders to live in rural areas thus increasing their isolation and reducing employment and treatment options. The study concluded that these sex offenders were more likely to reoffend given the lack of support.


#### **The Minnesota Department of Corrections recommended that:**

- Proximity restrictions should be focused on limiting the sex offender's association with children, rather than where the offender lives.
- Public notification of an offender's residential location serves a valuable community service.
- Funding and exploration of housing options such as half-way houses should be increased.
- Funding of emergency funds for offenders to meet housing expenses during transition should be increased.
- Regional correctional centers which will provide treatment services to offenders should be built.

In 2004, the Colorado Department of Public Safety researched whether (1) the living arrangements of sex offenders and (2) the location of sex offender residency impacted community safety. The study looked at a random sampling of the probation files of sex

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<sup>1</sup> Studies by Walker, Golden and Vanhouten (2001) and Tewksbury and Mustaine (2006) found that sex offenders tended to reside near schools. However, neither study measured recidivism rates.



offenders under probation supervision in the Denver metropolitan area. The study concluded that sex offenders living in a shared living arrangement with other offenders had significantly fewer violations than those living in other housing arrangements. The study found that urban areas had a large concentration of schools and childcare facilities. Therefore, any residency restrictions would severely limit the housing options for offenders. They also found no evidence that residential proximity to schools or parks affects re-offense. To the contrary, the sex offenders who reoffended were “scattered throughout the study area – there does not seem to be a greater number of these offenders living within proximity of schools and childcare centers than other types of offenders” (Colorado Dept. of Public Safety, 2004, p. 4). Lastly, the study found that the sex offenders who have support in their lives had a significantly lower number of criminal and technical violations than those who had negative or no support.

**The Colorado Department of Public Safety recommended that:**

- Shared living arrangements appear to be a successful containment and treatment tool and should be considered as desirable housing for high-risk offenders.
- Residency restrictions do not deter sex offenders from re-offending and should not be considered as a method of sex offender management.
- Though more research needs to be done, sex offender support in the home aids in treatment and decreases re-offending.


In 2005, Levenson and Cotter attempted to discover (1) the relationship between residency restrictions and sex offender reintegration and (2) the sex offender’s perception of residency restrictions. Specifically, the study focused on the proportion of sex offenders reporting that they had suffered an adverse effect from residency restrictions and the opinions of sex offenders regarding whether such residency restrictions reduced recidivism. The sample came from a pool of sex offenders in Fort Lauderdale and Tampa, Florida. Florida has a 1,000 foot residency limitation.

Levenson and Cotter (2005) found that residency restrictions adversely affected many, if not the majority, of the sex offenders’ ability to reintegrate.

The study also revealed that most sex offenders did not perceive residency restrictions as a deterrent to reoffending. Only a couple of the offenders felt that a blanket residency restriction helped by reducing temptation. The majority felt that residency restrictions should be imposed only on a “case-by-case” basis.

Of importance, many offenders believed the incentive to not reoffend came from internal motivators, and not from an external pressure. As such, they felt that residency restrictions had no impact on reoffending. Instead, they felt that, “if a sex abuser wants to reoffend, the rule would not stop him” (p. 174). They also believed that what prevents reoffending is the offender’s commitment to treatment and recovery. Residency





restrictions only increased their risk of reoffending by depriving them of the support of family or friends.


Levenson and Cotter (2005) concluded that, for most offenders, residency restrictions increased isolation, created financial and emotional stress, decreased stability, and increased the risk of reoffending. That is, a blanket residency restriction may be counter-productive to community safety. Instead, residency restrictions should be limited to those whose offense patterns and risk factor would justify the proximity limitations.

In 2006, Durling concluded that the adverse consequences of sex offender residency restrictions outweighed the benefits to society. Durling justified his conclusion based on four concerns: (1) residency restrictions laws were based on two flawed assumptions regarding the efficacy of residency restrictions; (2) residency restrictions may compel government agencies to provide housing; (3) neighborhoods in unrestricted areas will bear the financial costs for residency restrictions; and (4) financial stress will overwhelm the low-income offenders.

Durling (2006) believed that the two rationales for residency restrictions - sex offenders target children found near the offender's residence and that sex offenders reoffend at a higher rate than other offenders - were flawed. As to the first rationale, the researcher noted that various studies, including one from the U.S. Department of Justice, had shown that the vast majority of sex offenders harm children they knew and did not seek out strangers. Durling also noted that various studies, including the Minnesota study cited above, had not shown a relationship between the proximity of the sex offender's residence and the location of the sex crime. As to the second rationale, Durling noticed that recidivism rates for sex offenders were significantly lower than those of other crimes. For example, one study showed that only 20% of sex offenders committed another serious crime within three years of release from prison. In contrast, 68-74% of property crime offenders and 50-67% of drug offenders would be rearrested for committing another crime within three years. Thus, Durling concluded that residency restrictions would not increase community safety.

The second issue with residency restrictions is that the government may bear a heavy fiscal burden to provide housing in unrestricted areas. Durling surmised that offenders may be forced into the rural area where housing opportunities are very limited. As a result, the study concludes that the government may have to fund and construct housing in rural areas.

Assuming housing could be found in unrestricted areas, Durling speculated that the few neighborhoods not within the restricted area will bear the financial burden. The housing values for those areas will be driven down as the public learns about the presence of the offenders. For example, a study was conducted of the home values on Montgomery County, Ohio. In the areas where the residences of sex offenders were known, the value of those homes decreased by 17%.



Lastly, Durling concluded that residency restrictions would impose a financial stress on sex offenders. Durling noticed that most schools, daycare centers and parks are usually located in the main residential areas of cities. Residency restrictions will force sex offenders away from these areas and into locations where jobs and housing are few. Many offenders will become unemployed or homeless, which is a stressor for reoffense.

Suffering from these four practical problems, Durling concluded that residency restrictions are ineffective in increasing community safety, unfair to neighborhoods in unrestricted areas, and costly for taxpayers. Instead of a blanket residency restriction, Durling recommended that:

- Well-founded risk assessments instruments should be used to identify high-risk offenders and determine the appropriate supervision level. Residency restrictions should be imposed only on those where the assessment tool shows that proximity is related to recidivism.
- Use an indeterminate sentencing as a means of imposing longer sentences (and longer control) over high-risk offenders. However, the indeterminate sentencing scheme will work only if treatment is available for the offender while in prison.
- Specialized sex offender reentry courts, modeled after drug courts, could manage the sex offender through close supervision where the offender would be motivated to comply with treatment and polygraph testing in order to gain his freedom.

The most recent California comprehensive review of the literature regarding the impact of residency restrictions on sex offenders and correctional management practices was published in August, 2006 (Nieto and Jung, 2006). Marcus Nieto, Senior Research Specialist for the California Research Bureau and Professor David Jung of Hastings Law School reviewed the above literature and concluded that little evidence supports the rationale that residency restrictions reduce the likelihood of reoffending by sex offenders. The researchers criticized the Arkansas study as lacking researched-based evidence to support their conclusion. Nieto and Jung concluded that the Arkansas study merely speculated as to the intentions of the sex offender's choice to live near where children congregated, and the study did not actually track recidivism.

## **SUMMARY**

What is certain is that the public does not want a sex offender living near where their children congregate. What is also certain is that sex offenders are less likely to reoffend if they are successfully reintegrated into our community. Residency restrictions appear to severely limit the housing options for and support for reintegration of sex offenders. The number of sex offenders who have declared themselves as transient or have absconded has increased dramatically since the implementation of Jessica's Law. Whether residency restrictions increase community safety is uncertain.

Jessica's Law does not identify who is responsible for enforcing residency restrictions after the sex offender is released from probation or parole supervision. The residency restrictions of Jessica's Law are found within Part 3, Title 1, Chapter 8, "Length of Imprisonment and Parole" of the Penal Code. As such, the implication is that CDCR is tasked with enforcing Jessica's Law. However, CDCR lacks jurisdiction over a sex offender once he/she is discharged from parole. CDCR also does not have jurisdiction over probationers, county probation departments do.

Furthermore, Jessica's Law does not explicitly impose a penalty for violators who have been released from probation or parole. As noted in CDCR Policy No. 07-36, parole agents were instructed to report violators to the Board of Parole Hearings. The memo did not state that a criminal charge could be alleged.

### **Summary of Strengths in Housing of Sex Offenders in California**

- Public support for residency restrictions is strong.
- Most of the affected parolees have found compliant housing.
- Most of the affected parolees who absconded in order to avoid the residency restriction have been arrested.
- Efforts to identify compliant housing for parolees has increased.
- Public support for residency restrictions is strong.
- Most of the affected parolees have found compliant housing.
- Most of the affected parolees who absconded in order to avoid the residency restriction have been arrested.

### **Summary of Gaps in Housing of Sex Offenders in California**

- There is a lack of transitional housing for parolees.
- There is no policy or procedure for CDCR to assist in finding suitable housing for parolees. Parolees are expected to find their own housing. Efforts to assist with identification of compliant housing are hampered by the lack of housing options in urban areas.
- The effect of residency restrictions on probationers is unknown.
- Jessica's Law does not identify who is responsible for enforcing its residency restrictions after the sex offender is released from probation or parole.
- Jessica's Law does not impose a penalty for violators who have been released from probation or parole.

## Recommendations for Future Research

- **The impact of residency restrictions on probationers.** CDCR has data regarding parolees. However, the number of affected probationers who are not in compliance, the number of affected probationers who have declared themselves as transient, and the number of affected probationers who have absconded from probation supervision are unknown.
- **The impact of residency restrictions on offender's access to employment, treatment and support.** Researchers have speculated that the unrestricted area would lack adequate resources to aid in the reintegration of sex offenders. Data is lacking regarding whether sex offenders have been impacted in a manner that will inhibit their reintegration and thereby increase the risk of reoffending.
- **Enforcement of residency restrictions post supervision.** CDCR has established and implemented policy and procedures to enforce Jessica's Law. However, CDCR's jurisdiction is limited to parolees. While it is evident that post supervision enforcement is limited, accurate reporting of efforts related to 58 diverse counties is not possible at this time.
- **The impact of local ordinances that further restrict where sex offenders may live.** The current research has studied the impact of state-wide residency restrictions. Little information is known regarding which municipalities has enacted ordinances and the impact of those ordinances on community safety and sex offender rehabilitation.

## Proposition 83 and housing of sex offenders.

### Areas of Jessica's Law that have Demonstrated Implementation Challenges or Require clarification

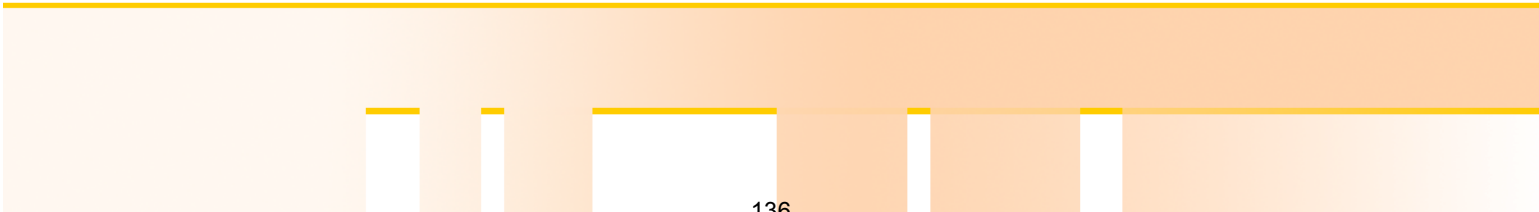
Proposition 83 added section (b) to Penal Code Section 3003.5 which makes it unlawful for any person required to register pursuant to Penal Code Section 290 to live within 2,000 feet of any "public or private school, or park where children regularly gather."

- The term "park where children regularly gather" is not defined by the initiative
  - It is unclear if this term refers to the entire grounds of a park (sizeable portions in which children may not routinely gather) or the portion (such as location where a play structure is located) where children are intended to be present.
  - It is unclear how often children need to be present at a park to meet the threshold of the phrase "regularly gather"?

- Proposition 83 does not prescribe a method for determining how to measure the 2,000 residency restriction.
  - It is unclear what physical point on a site should be used to begin measurement. For example, some localities measure from the center-point of a property and some measure from the border edges of the property.
  - It is unclear how the 2,000 foot distance should be measured. Should practitioners determine the distance by roads or routes a car would travel? Should the distance be determined using straight lines or ‘as the crow flies’?
- While residing within 2,000 feet of prohibited areas is declared “unlawful” there is no explicit prescribed penalty for violating residency restrictions. In fact, the term “residency” is not defined by the Proposition.
- Practitioners, public safety officials and others charged with implementing the Proposition have indicated that there might be geographic and architectural barriers which might appropriately mitigate the distance restrictions, such as freeways, multi-lane streets, streams or rivers. Identification of appropriate mitigation would increase the potential for finding appropriate housing.
- Some jurisdictions in California are especially challenged to identify areas where offenders can reside. Appropriate amendments should be examined for jurisdictions that *cannot* house offenders due to the density of excluded areas.

Penal Code Section 3003.5(c) was added to explicitly state that municipal jurisdictions are not prohibited from enacting additional residency restrictions for sex offenders required to register by Penal Code Section 290.

- This authority is not reconciled with the responsibility of localities under Penal Code Section 3003 to accept the return of parolees to the county of their last legal residence.
- There is no agency or department designated to track the development and implementation of local ordinances.



## TREATMENT

**7**

## **INTRODUCTION**

Sex offender treatment is an important part of the Containment model of sex offender management. Collaboration between treatment providers, parole agents / probation officers, clinical polygraph examiners, and victim advocates are key elements necessary for the successful re-entry and continued supervision of sex offenders. Sex offender treatment has historically utilized different methods to rehabilitate this population, with victim safety and reduction of recidivism being main treatment goals.

Sex offender treatment which once attempted to treat sex offenders with traditional models of treatment has evolved to a more specialized approach. A cognitive behavioral approach which critically examines deviant thoughts and behaviors has replaced psychotherapy as the base of treatment. In many cases, community safety and/or the safety of potential victims, as opposed to the offender, is the focus of sex offender treatment. All the other tools of supervision are external controls on a sex offender's behavior. Treatment can assist the sex offender change so that after he is off of supervision he can monitor his own behavior through the development of internal controls.

The most current scientific literature is reviewed, and evidence-based “what works” in sex offender treatment is discussed. Sex offender treatment available and used by the state of California will be contrasted with evidence-based “what works” model presented, with strengths and gaps noted.

## **TOPICS IN SEX OFFENDER TREATMENT**


- Review of the Literature in Sex Offender Treatment;
- Current Evidence-Based Practice in Sex Offender Treatment;
- Components of a Cognitive Behavioral Program;
- Promising New Areas in Sex Offender Treatment;
- Sex Offender Treatment in the State of California;
- Sexually Violent Predators;
- Division of Adult Parole Operations; and
- California Counties (Probation)

## **REVIEW OF THE LITERATURE ON SEX OFFENDER TREATMENT**

### **The History of Sex Offender Treatment**

There have been three distinct approaches to the treatment of sexual offenders in the past six decades (Brown, 2005). Beginning in the 1930's, sex offenders were conceived of as mentally ill, and determined to be “sexual psychopaths” who were unable to control their behavior. Legislation locking up sexual offenders in mental hospitals and mandating treatment began to be popular. The approach most utilized at the time, which was current to popular psychological thinking, was insight-oriented or psychoanalytic treatment for





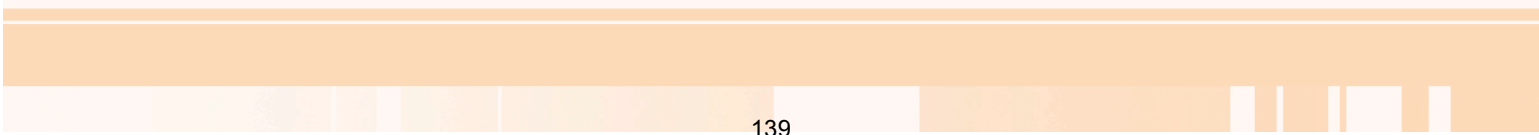
sexual offenders. Treatment was focused on identifying and trying to resolve early life conflicts and traumas. The goal of therapy was to work through these repressed conflicts, making the early harm conscious to the offender through dream analysis and free association (Becker and Murphy, 1998). These programs were found to produce no results and were largely terminated.


The second approach to sex offender treatment began in the 1970's as the psychological community made a general shift towards behaviorism. Behavioral treatment programs for sex offenders were developed as sex offenders were no longer seen as "sick" and as unable to control their behavior, but seen as responsible for their actions (Brown, 2005). Behavior therapy focuses on observable behavior and does not focus on thoughts that can only be assumed. Behavioral therapy in sex offender treatment focused almost exclusively on using positive or negative reinforcement strategies to reshape the offender's deviant arousal pattern. An example of a behavioral strategy would be to pair a very negative stimulus (such as electric shock) with something that produced an offender's deviant arousal (such as a picture of a child). At first, it was assumed that the offender would automatically develop a "normal" arousal pattern once the deviant pattern was extinguished. This training did not generalize apart from lab settings.

However, as programs became more sophisticated, more behavioral techniques were added, including helping offenders learn more normal patterns of arousal. Studies have shown reinforcement techniques to be helpful in manipulating behaviors (Brown, 2005). One of the problems of an exclusively behavioral treatment was that it assumed a simplistic cause of sexual offending behavior – deviant arousal. Ultimately sex offender specialists started incorporating other variables and treatment techniques into sex offender therapy. Sex offending has a complex etiology, and there are numerous elements involved that have been suggested as potential causes of why individuals offend (i.e., Ward, 2003). A treatment model that does not incorporate numerous treatment strategies to account for the complex range of factors involved with sexual offending behavior will not adequately correct this behavior.

The third approach, Cognitive Behavioral Treatment for sex offenders evolved out of the behavioral school of thought. Components for dealing with the range of issues experienced by many sexual offenders were added to behavioral programs throughout the 1970's, such as modules on self esteem building, anger management, alcohol and drug abuse, leisure time management and social skill training. By 1980, components on assertiveness, empathy enhancement, sexual dysfunction, and gender role behavior had been added. At this point, the program could be termed a Cognitive Behavioral program (Brown, 2005; Marshall, 1996). Such programs have focused on cognitive distortions (Marshall, 1996), or helping to correct thinking errors commonly displayed by sexual offenders.

The development of the relapse prevention model adapting strategies developed by Marlatt and Gordon (1985, as cited in Brown, 2005) was stated to be one of the most important developments in sex offender treatment of the 1980's (Marshall, 1996). The





relapse prevention model was originally designed for work with addictive disorders, such as substance abuse, and is seen as a long-term behavioral management strategy (CSOM, 2006). Relapse prevention is a key element of most current cognitive behavioral treatment programs (Brown, 2005).

Relapse prevention is based on a theory that if the offender is able to break his offense cycle into parts, monitor his behavior and thoughts for precursors to his offending behavior, to anticipate and avoid lapses (such as a deviant fantasy), he will be able to avoid relapsing into new offending behavior. If offenders realize that lapses are to be expected, they will avoid making poor decisions and re-offending. Coping strategies are taught so that when the offender is experiencing a high risk situation, newly developed coping skills can be employed to avoid reoffending. The relapse prevention model also stresses expecting some form of relapse (the abstinence violation effect) so that if a lapse occurs the offender can get back on track rather than viewing the lapse as a reason to continue a downward spiral towards offending behavior (Hildebran and Pithers, 1992).


Other treatment strategies have been used with sex offenders such as antiandrogen drugs (such as Depo-Provera to inhibit sexual drive) and antidepressants, specifically selective serotonin reuptake inhibitors such as fluoxetine (Becker and Murphy, 1998). These treatment strategies are sometimes included as part of cognitive behavioral programs.

Throughout the 1990's, the attention paid to sex offender treatment programs has expanded exponentially as has the number and size of treatment programs running throughout the United States. Freeman-Longo and Knopp (1992) of the Safer Society Program focused on the benefits of treatment outweighing the costs now that a model showing a reduction in sexual recidivism has been created. The Cognitive Behavioral Relapse Prevention model has been refined and expanded, but is still the model of choice.

### **Current Model for Sex Offender Treatment**

Public safety is the main treatment goal of sex offender treatment programs. Programs use the cognitive behavioral model utilizing group therapy with relapse prevention as the main focus of treatment (West, Hromas and Wenger by the Colorado Dept. of Criminal Justice Research, 2006). According to a 50-state survey conducted by the Colorado Department of Corrections, as of 2006, formal sex offender therapy was being conducted in 44 states. Four states provided treatment from five to nine months in duration, nine states provided treatment between one and two years long, ten states provide treatment up to three years long, and nine states provide over three years of sex offender treatment. Treatment programs ranged from institutionally-based programs for inmates to community outpatient programs (West et al., 2000).

For a program to qualify as evidence-based, or as “what works” in sex offender treatment, there must be evidence that it reduces recidivism, or increases public safety, the main treatment goal for sex offender treatment programs. However, there has been



dissent regarding the degree that treatment has been proven to work in the scientific literature.

### **Do Cognitive Behavioral Relapse Prevention Treatment Programs Work and for Whom?**

Many studies reviewing the literature on sex offender treatment programs have found that cognitive behavioral relapse prevention treatment programs help to reduce recidivism in sex offenders who have completed treatment. Newer studies that measure cognitive behavioral programs tend to have bigger treatment effects than older studies measuring older, more obsolete treatment programs. It has been found that treatment helps offenders make significant changes in their lives over the long term (Dwyer & Myers, 1990). It has also been found that even if offenders are not motivated or interested in receiving treatment, it still helps to reduce recidivism. Many extensive and recent meta-analyses, or comprehensive reviews of many treatment studies have found effects for treatment (Hall, 1995; Gallagher, Wilson, Hirschfield, Coggeshall & MacKenzie, 1999; Marshall, Jones, Ward, Johnston & Barbaree, 1991; Polizzi, MacKenzie & Hickman, 1999).

The 50-state survey by the Colorado Department of Corrections, West et al. (2000) found that fourteen states employed a research component that tracked the effectiveness of the sex offender treatment programs. All programs reported positive outcomes or lower recidivism rates for sex offenders who completed sex offender treatment.

A large meta-analysis of 43 studies by Hanson and his colleagues (2002) found that offenders who received cognitive behavioral or systemic sex offender treatment had a lower sexual reoffense rate (10%) than did the offenders in a comparison group (17%). In addition, the two groups differed on general criminal recidivism rates (32% for treated and 51% for untreated sexual offenders) after four to five years of follow-up. Hanson et al. (2002) concluded that sex offender treatment does significantly reduce recidivism. In another large meta-analysis, 69 studies were analyzed comparing 22,181 total offenders (Losel and Schmucker, 2005). Losel and Schmucker found that sex offenders who complete cognitive behavioral treatment have a reduction in recidivism (see Table 7-1), but sex offenders who leave treatment without successful completion have an increased risk of recidivism, doubling the odds of a relapse. In addition, findings included support for hormonal treatment (antiandrogens) of sex offenders. Aos, Miller, and Drake (2006) found 18 well-designed evaluations of treatment programs for sex offenders. On average, they found that cognitive behavior therapy for sex offenders in prison significantly reduces recidivism by 14.9 %. They also found that cognitive behavior therapy for lower risk sex offenders on probation significantly reduces recidivism by 31.2%. (See Section 3 regarding recidivism).

**Table 7-1. Total mean effects of treatment for different areas of recidivism.**

Type of Recidivism	Recidivism % Treatment Groups	Recidivism % Control Groups
Sexual Recidivism	11.1	17.5
Violent Recidivism	6.6	11.8
Any Recidivism	22.4	32.5

From Losel and Schmucker's meta-analysis (2005)

Several studies, including some recent and well-designed studies, have found no reduction in recidivism for those completing sex offender treatment programs. Some studies are older, and found no effects of older, behavioral treatments. Furby, Weinrott and Blackshaw (1989) completed one of the first reviews of sex offender treatment and found that there was no effectiveness of treatment for different types of offenders under those older treatment conditions. Another study by Hanson, Broom, and Stephenson, (2004) also found no effect of older, unstandardized treatment.

One of the few studies known for a superior experimental design was California's Sex Offender Treatment and Evaluation Project (SOTEP). Final results of the relapse prevention program over an 8-year follow up period found no results for the treatment group in reduced recidivism rates (Marques, Wiederanders, Day, Nelson, and van Ommeren, 2005). However, evaluation of the groups found that despite random assignment, the treatment group had a higher level of risk than the control group. When the groups were reassigned by risk, there was a tendency for the treated group to have lower offense rates. This issue highlights the need for all treatment programs to first assess level of risk prior to treatment (Andrews & Bonta, 2003). When evaluating which offenders achieved the treatment goals addressed in the program, the high risk offenders who were not treated had lower recidivism rates than treated offenders who did not meet treatment goals (although this was not true of low and medium risk offenders, Marques et al., 2005).

According to the Collaborative Outcome Data Committee (Beech, Hanson, Harris, Langton, Marques, Miner, Murphy, Quinsey, Seto, Thornton and Yates, 2007) since 1980 there have been more than 20 reviews of treatment effectiveness for sexual offenders. On average, treatment groups have shown lower recidivism rates than the comparison groups. However, because of the difficulties present in methodically measuring treatment outcome in a scientific manner, this committee (Beech et al., 2007) defined guidelines for future researchers so that rather than adopting their own stance for how to evaluate treatment studies, all researchers can use the same guidelines. Some meta-analyses (studies that take many treatment outcome studies and evaluate them all together) were criticized for using studies of poor quality, while other studies were criticized for using standards that were too harsh to really judge if treatment had an effect. The main issue cited by the committee was that if all researchers want to evaluate

the “best” studies, then all should have the same definition of “best.” The committee cautioned that,

*“In the field of sexual offender treatment, it is unlikely that there will ever be a ‘definitive’ study, however desirable that would be. The complexity of the interventions and the long delays needed before knowing the ultimate outcome (i.e., recidivism) present significant technical obstacles, even if there was the social and political will for generous investment in sex offender research. Furthermore, the heterogeneity of the sexual offender population precludes the answers from being found in any single study. Consequently, the future of sexual offender outcome research will involve the accumulation of evidence given by small studies.”*


In addition, the committee addressed other issues that are of concern to researchers in determining whether a particular treatment approach works, and encouraged those who are interested in determining whether sex offender treatment works to evaluate studies of all treatment designs because it can be unethical to withhold sex offender treatment for public safety reasons. The committee also encouraged administrators to evaluate their treatment programs to see what aspects work and to add that to the literature on “what works.”

In general, based on the literature, we can make the statement that cognitive behavioral treatment with a relapse prevention component is the treatment model that “works” when offered in a comprehensive and appropriate manner (Wormith et al., 2007).

## **CURRENT EVIDENCE-BASED PRACTICE IN SEX OFFENDER TREATMENT**

**Assessment:** Specialized assessments should be the first part of any treatment program. All sex offenders have unique profiles and histories, and although treatment will be offered in a group setting as part of a regularly administered program, each offender should have an individualized treatment plan prior to placement in the program. In addition, assessment of each offender’s level of risk, need, and motivation for treatment adhering to Andrews and Bonta’s (2003) principles of risk, need, and responsivity have been shown to better reduce recidivism (Andrews and Dowden, 2005). A study reported by Andrews, Bonta and Wormith (2006) found that agencies using the risk, need, and responsivity principle via standardized risk and need assessments had a greater impact on recidivism than agencies that did not.

Those offenders assessed to have higher risk levels need to have higher intensity programs and supervision methods; while those offenders assessed to have low risk may need less intervention (Andrews, 2006; Andrews & Bonta, 2003). High risk offenders in intense levels of treatment were found to recidivate less than those who did not receive treatment (31.6% and 51.1%, respectively). Conversely, the same study found that low risk offenders in intensive treatment had higher rates of recidivism than those who did not receive treatment (32.3% and 14.5%, respectively) (Bonta, Wallace-Capretta, & Rooney,



2000). Therefore, it is critical to match the offender's level of service to the offender's level of risk.

High risk level offenders have characteristics that are associated with an increased risk of recidivism, also called criminogenic needs. Some characteristics of persistent sexual offenders (increasing level of risk) include any deviant sexual interest, sexual preoccupation, antisocial personality, psychopathy, general problems with self-regulation, unstable employment, and hostility (Hanson & Morton-Bourgon, 2005). Risk factors that were found to not be correlated with recidivism were neglect or abuse during childhood, sexual abuse during childhood, loneliness, low self-esteem, lack of victim empathy, denial of sexual crime, and low motivation for treatment at intake (Hanson & Morton-Bourgon, 2005). Treatment should focus on those risk factors or criminogenic needs that place the offender at highest risk for recidivism, such as deviant sexual interest and problems with self regulation, while not focusing as much on less-important risk factors such as denial and prior abuse history.

There are many valid and useful risk assessment instruments that are used by treatment providers to estimate static (unchanging) as well as stable dynamic (slow to change) and acute dynamic (of concern in the moment) risk factors both at intake and throughout the treatment process (CSOM, 2007). Assessing sexual deviance is attempted using penile plethysmography or sexual interest/viewing time measures (ATSA, 2004). In addition, a treatment provider should assess the offender's psychological adjustment and personality, level of need for services, substance use and abuse history, criminal history, developmental history, sexual development, attitudes, behaviors, interests and preferences, intellectual and cognitive functioning, family structure and dynamics, interpersonal relationships, peers and associates, intimate relationships, response to prior interventions and motivation to change (CSOM, 2007). It is important to use multiple sources of data for assessments as opposed to offender self-report; research-supported tools that are reliable and valid, should be used as part of a comprehensive assessment (CSOM, 2007; Hanson & Morton-Bourgon, 2005).

While assessing risk level of offenders is vital to appropriate placement into a treatment program, it is also important to assess the offender's individual criminogenic needs. The comprehensive assessment will identify the needs most likely to lead the offender back to sexual offending, and will enable the treatment provider to focus on these as main personalized treatment goals adhering to the principle of need (Andrews, 2006; CSOM, 2007; Hanson & Morton-Bourgon, 2005).

Finally, assessment allows the treatment provider to apply the responsivity principle to the offender. Issues that should be assessed include motivation for treatment, learning style, and cognitive impairment (Ward, 2003). Motivated offenders who are not cognitively impaired will be able to benefit from placement in an advanced cognitive behavioral group therapy setting, while a highly antisocial offender or an offender with a developmental disability might require more of an individualized approach. Offenders with a short attention span might benefit from shorter sessions with many visual





interventions. Treatment flexibility and innovation under certain circumstances can be very helpful in adapting to individual offender needs (Ward, 2003).

***Treatment Goals:*** The main focus of treatment is to reduce recidivism and promote community safety. This is achieved by having the offender's specific criminogenic needs assessed and focusing a case management plan to remediate these risk factors so that the offender's risk of reoffending will be reduced (Hanson & Morton-Bourgon, 2005). In addition, treatment goals should be specific and measurable so that progress in attaining goals can be accurately documented on a regular basis (CSOM, 2007).

Common targets for treatment include (CSOM, 2007):

- Deviant sexual arousal, interests or preferences;
- Sexual preoccupation;
- Pervasive anger or hostility;
- Emotional management difficulties;
- Self-regulation difficulties or impulsivity;
- An antisocial orientation;
- Pro-offending attitudes, or cognitive distortions; and
- Intimacy deficits and conflicts in intimate relationships.

Other areas that are common treatment targets in sex offender programs despite the lack of evidence that these treatment goals reduce recidivism include denial or offense responsibility, self-esteem, anxiety, personal distress, and empathy deficits. These non-criminogenic targets are seen as discretionary interventions and should be used at the determination of the treatment provider (CSOM, 2007; Ward, 2003).

***Collaboration with Supervision:*** A model treatment program will have a built-in mechanism for treatment providers to communicate with parole agents and probation officers as well as victim advocates as needed as part of the containment model of supervision (English, 1998). The treatment provider must be familiar with the containment model and must provide both verbal and written feedback to the supervising agent of the sex offender, making sure that any dynamic risk factors are immediately communicated in the interest of community safety. The offender must sign a consent form in the beginning of the treatment process that will outline the limits of confidentiality of sex offender treatment, including what communications will occur between the treatment provider, polygraph examiner, parole or probation officer, and victim advocates (CSOM, 2007; English, 1998). Collaboration has been shown to be valued by treatment providers and to add to public safety (Mcgrath, Cumming & Holt, 2002). Frequency and type of communication should be outlined as part of the treatment program.

## COMPONENTS OF A COGNITIVE BEHAVIORAL PROGRAM

- Treatment should be individualized for each offender, with a case plan written based on level of risk, criminogenic needs, and responsivity factors, with individualized approaches for special populations.
- Internal motivation is usually not enough to warrant a sex offender's participation in treatment. External motivation such as being mandated to attend treatment is usually necessary to get offenders to fully comply with treatment (ATSA, 2004).
- Funding for sex offender treatment should be provided as part of sex offender supervision policies, and it should be sufficient to provide enough qualified staff people and resources to run a quality treatment program (CSOM CAP, 2004).
- Treatment providers should have specialized training according to ATSA guidelines or similar such guidelines (ATSA, 2004).
- Therapists should be empathic, warm, rewarding, encouraging, firm, but flexible, and relatively directive as opposed to harsh and confrontational (CSOM, 2007; Harkins & Beech, 2007).
- Group therapy is generally the accepted mode of treatment. Benefits of group therapy include feedback from peers, avoiding the dynamic of secrecy, having cognitive distortions challenged by "expert" peers, and having the group process provide an opportunity for the offender to model, evaluate and practice relationship and social skills (ATSA, 2004; CSOM CAP, 2004; Sawyer, 2002). However, some offenders may fare better with individual treatment.
- Groups should be selected with care, with high risk offenders separated from low risk offenders.
- Offenders with intellectual disabilities should be assessed and treated separately with programming modified for their level of cognitive and social functioning (Blasingame, 2005).
- Care should be taken with the therapeutic climate of the sex offender treatment program. Negative programs that shame the offender have been shown to be ineffective. Groups should promote cohesiveness and trust, be organized in a way to impart information and facilitate goal attainment, create an environment that is conducive to change, including expectations for disclosure, responsibility taking, and safe emotional expression, and instill hope for change (CSOM CAP, 2004; Sawyer, 2002). Instilling hope is seen as increasing self-efficacy, and as possibly enhancing an offender's ability to change in treatment (Marshall et al., 2005).
- Pre-defined treatment goals should be documented for each offender, and progress communicated verbally and in writing to parole and probation officers. Risk factors should be documented and communicated immediately.
- Use of the post-conviction polygraph in conjunction with treatment obtains information about dangerous behavior that would otherwise



remain unknown (English & Heil, 2006). The last Safer Society survey found that 60 % of treatment programs utilize polygraph exams as part of treatment (English & Heil, 2006). Treatment programs should utilize polygraph exams as part of the treatment program protocol for more efficient treatment and a decrease in acting out behaviors (Harrison & Kirkpatrick, 2000). In addition, the rate of crossover in sex offending behavior is sometimes revealed to be higher with the use of the polygraph. When polygraphed, 82% of known child molesters admitted to sexually assaulting adults and 50% of known rapists admitting to sexually assaulting children; 62% of known non-relative sexual offenders admitted to sexually assaulting relatives (Heil, Ahlmeyer, McCullar, and McKee, 2000). A study in the UK by Wilcox, Sosnowski, Warberg, and Beech (2005) found significant rates of crossover behavior and information regarding prior sexual history and other risk-related behaviors that would have remained unknown to treatment providers without the use of polygraph examinations in conjunction with sex offender treatment. Wilcox et al. (2005) also found that sex offenders who were polygraph participants admitted to significantly more offenses and paraphilias (deviant preoccupations and behaviors) than were previously known from official records.

- Holistic programming should be implemented as part of sex offender treatment programs. Offenders who have committed sex offenses may also have psychiatric issues, substance abuse problems, vocational or educational problems that may need to be addressed in conjunction with sex offender treatment so that they can lead a stable and productive life (CSOM, 2007; Longo, 2002).
- An evaluative component should be put in place in all sex offender treatment programs to measure whether the program is achieving short and long-term goals for reduction of recidivism (CSOM, 2007; Petersilia, 2004).

## **PROMISING NEW AREAS OF SEX OFFENDER TREATMENT**

When placing offenders in groups, having some sense of etiology or offense pathway can help the treatment provider in designing an appropriate treatment plan. It is thought that application of cognitive behavioral theory helps providers better understand the motivations of the offender and what might put them at risk to re-offend. Two current theories with some empirical support are the Pathways model and the Self-Regulation model that classify individuals based on different factors that lead to re-offending (CSOM, 2007; Drake & Ward, 2003).

### ***Pathways model:***

This model focuses on an offender's developmental progression towards offending. It is cognitive behavioral in approach, and distinguishes between short term and long term causes of offending. The model helps a provider to understand how different factors can

trigger a sexual offense for different types of offenders and can help them to individualize treatment goals (Drake & Ward, 2003; Ward, 2003). The four pathways are (CSOM, 2007; Drake & Ward, 2003; Ward, 2003):

1. Problems regulating emotions;
2. Interpersonal problems, including intimacy deficits, loneliness, and social isolation;
3. Attitudes and beliefs that support antisocial or sexually abusive behaviors, commonly referred to as cognitive distortions; and
4. Deviant sexual fantasies, arousal, and internal interpretations about how to approach sexual encounters;

Some offenders have problems in more than one of these areas (have issues in two or more of the above pathways).


### ***Self-Regulation model:***

Treatment providers can assess which of four pathways the offender follows, and help them by building the necessary skills to avoid re-offending (CSOM, 2007; Drake & Ward, 2003).

1. *Avoidance – Passive.* The offender wishes to avoid offending but fails to actively prevent it from occurring. These individuals are likely to lack coping skills, be impulsive, and use covert planning in their offenses.
2. *Avoidance – Active.* The offender wishes to avoid offending and attempts to use strategies to reduce risk of re-offending. However, their strategies are inappropriate and result in an increased risk of re-offending. An example is an offender attempting to avoid a desire for deviant sex by drinking alcohol.
3. *Approach – Automatic.* The offender wishes to continue offending; their offenses are driven by situational factors and circumstances rather than active planning and are often the result of poor self-management skills and impulsivity.
4. *Approach – Explicit.* The offender is motivated to offend and engages in explicit planning, including specific steps to groom victims and avoid detection, which highlights an ability to regulate their behavior for self-serving purposes.

### ***Strength-Based Model:***

There has recently been a shift in attitudes regarding treatment for sexual offenders. Although the cognitive behavioral model is still best practice, there is a move towards a rehabilitative approach that is more positive. If offenders are invested and engaged in the process of change, there is more chance that the program will yield effective results (CSOM, 2007; Marshall et al., 2005). Preliminary research has shown support for this approach (Wormith et al., 2007). A new “Good Lives” model of sex offender treatment has been developed that focuses on leading a “good life” and developing positive goals, such as intimacy, health, knowledge, autonomy, and emotional balance that may help the offender to counteract obstacles and prevent them from re-offending (CSOM, 2007).



The “Good Lives” model is strength-based and is designed to create an overall sense of well-being and enhance offenders’ internal motivation for treatment. If the likelihood of success of treatment is enhanced, the chances of meeting the main treatment goal of community safety will be increased (CSOM, 2007). It is incompatible for a sex offender to be living the “Good Lives” model while continuing to offend sexually. According to Marshall et al. (2005), it is important for the treatment provider to take note of each offender’s capabilities, temperament, interests, skills, value systems, preferred way of living in the world, and support networks in order to help that offender to incorporate this model of well-being into a rehabilitative context. The goals should be realistic and help the offender to attain competence, strategies and skills as well as to help them create opportunities to lead a better life.

Instilling hope, along with self-efficacy (a sense of personal empowerment that the offender can live this good life) is part of the model (Marshall et al., 2005). The identification of a positive future lifestyle that leads to the good life is the goal to reduce future offending behavior in this model. This model is a key advancement in sex offender treatment that can lead to community safety (CSOM, 2007).

### ***Program Evaluation***

It is very important that once a treatment program has begun with all the elements that are evidence-based, that a program evaluation be part of the implementation process. It is important that both research and policy work together to create programs that are effective from a scientific as well as an administrative vantage point (Petersilia, 2004).

The first part of a program evaluation takes into account all resources necessary to make the treatment program successful, such as funding, treatment materials, staff/client ratio, training and credentials of the treatment staff, the organization of the staff, and demographics of program refusers (Green, 1995).

The second part of the evaluation takes into consideration issues such as how decisions are made to take offenders into treatment, how offenders are identified for treatment, theoretical orientation, how many groups, modules, therapy sessions (individual or group) are being conducted on a monthly basis, treatment planning methods, how input from the staff is solicited, how communication is achieved with the parole or probation officer, how risk assessment information is communicated, and how everything is being measured (Green, 1995; Marques, 1999).

The third part of the program evaluation should determine the number of clients being treated per month, the number of clients being terminated per month (by type of termination: Completion, drop out, return to prison), and the number of offenders who are going to aftercare programs.

The long-term results of a treatment program rely on long term follow-up. Recidivism rates, including factors that predicted reoffenses, are used by studies in determining

whether a program was ultimately successful in its ability to deter sex offending. Most recent studies find that sex offenders should be tracked at least five years post-treatment status as the most reliable method of determining whether the offender has ultimately been helped by treatment (i.e., Marques, 1999; Marques, et al., 2005).

## **SEX OFFENDER TREATMENT IN THE STATE OF CALIFORNIA**

There are currently no public locked placements or residential treatment facilities for individuals who offended sexually as adults in California other than those in state hospitals. CDCR obtained approval of a design for an institutional treatment facility but as of the current time no requests for funding have materialized.

There are no statewide policies or implementation strategies for managing and treating sexual offenders. While three counties have developed their own criteria for treatment providers, there are no statewide certification or regulatory processes for those who do therapeutic services with sex offenders. The only current statewide requirement is licensure as a psychotherapist in either psychology, social work, or marriage and family therapy. ATSA and CCOSO recommend that providers of treatment with sex offenders have specialized training with this population (ATSA, 2004). Quality treatment for sex offenders requires specially trained and credentialed providers. Several states have moved in the direction of provider credentialing and mandatory continuing education requirements.

## **SEXUALLY VIOLENT PREDATORS**

Sixteen states, including California, have enacted “sexually violent predator” or “civil commitment” statutes. These statutes allow state authorities to hold a sex offender after his or her criminal sentence has expired if the offender suffers from a mental disorder that causes him to be predisposed to the commission of criminal sexual acts (CSOM, 2002). In California, offenders who are detained under WIC 6602 or 6604 reside in Coalinga State Hospital, Atascadero State Hospital, Patton State Hospital (for females), or in the local county jail (pending potential commitment). Every inmate pending release from CDCR who has a qualifying offense is referred to the Department of Mental Health to determine if he or she meets the clinical criteria for commitment as a sexually violent predator, prior to their release. If so, the Department recommends the filing of a commitment petition by the district attorney and the inmate is paroled to the hospital (or county jail) instead of the community. Thereafter the individual must be adjudicated by a court of law as an SVP to be civilly committed for an indeterminate term. Sexually violent predators can apply legally to return to the community, asking the court to overturn their status. Several have been successful in their requests of the court.

Coalinga State Hospital currently has 655 men detained under the Sexually Violent Predator Act (SVPs) (including WIC 6602’s and WIC 6604’s) and an additional 8 men being held under PC2684, all of whom are PC290 registrants. Atascadero State Hospital

has a total of 63 men detained under the Sexually Violent Predator Act. Approximately 20-30% of those detained under WIC 6602 and/or WIC 6604 are participating in the Sexual Offender Commitment Program (SOCP). (Many others participate in non-sex offender focused groups). The SOCP program is based on cognitive and cognitive behavioral theories as well as findings from the Sex Offender Treatment and Evaluation Program (SOTEP) relapse prevention program of Marques and her colleagues (2005) and other widely accepted literature. The treatment program includes comprehensive assessments, including penile plethysmography, polygraph examinations, cognitive and psychological assessments. The SOCP program also provides a tutorial track for cognitively impaired offenders. The SOCP program has five phases of treatment, four of which occur in the institution, and the fifth phase occurs as follow up when the individual is released into the community.

11 SVPs have been released into the community after completing the treatment program. Approximately 130 who did not complete treatment have been released through the judicial process. Cohen and Jeglic (2007) cite a serious absence of nationwide data regarding the numbers of SVPs who are released following treatment and those released following judicial intervention. It is unclear why only 20-30% of the SVP population participate in treatment at this time; treatment refusal is a significant concern.

No institutionally based sex offender treatment is provided to sex offenders incarcerated in California prisons at this time. According to a 50-state survey completed in 2006, (English et al.) this places California in the minority of states not providing treatment to incarcerated sex offenders. As of 2006, California was one of 6 states not providing sex offender treatment in prisons.

## **DIVISION OF ADULT PAROLE OPERATIONS (DAPO)**

It is a condition of parole that High Risk Sex Offenders (HRSO) or any sex offender directed to do so by their parole agent (CDCR memo dated December 5, 2005) must attend sex offender treatment. This treatment can consist of contracted sex offender treatment programs, Parole Outpatient Clinic (POC) treatment, or relapse prevention groups run by HRSO parole agents in some parole units.

In the fiscal year 2007-2008 sex offender contracts with treatment providers were limited to just over 300 treatment slots for more than 8,000 parolees, of whom over 3,000 were HRSO sex offenders. This left much of the treatment responsibility in the hands of parole agents, even though not all agents conduct these programs, and the agents have no standardized curriculum to follow (Peckenpaugh & Petersilia, 2006). According to McGrath and his colleagues (2002) there are issues with lack of training, multiple relationships, and ethics, when parole agents also provide sex offender treatment for parolees.

When sex offenders are not given slots in treatment programs, which through this current year were only available in Alameda, San Francisco, Santa Clara, Orange, Riverside, San

Diego, Fresno, Shasta and Sacramento counties due to contractual issues (Peckenpaugh & Petersilia, 2006), they are mandated to attend POC treatment. However, POC was only funded to treat mentally ill parolees, was not given the funding for a standardized sex offender treatment program or sex offender training for their clinicians, nor do they have enough clinicians allotted to provide treatment to this extra population. Additionally, many parole units do not have the facilities to provide the group rooms necessary to provide group therapy.

At the current time, bids with a due date of February 28, 2008 (Division of Support Services, i.e., Bid no. P07.1013) are in process in each of the four parole regions. These new contracts are expected to cover up to 2,700 slots at an approximate total cost of \$74 million for an 18 month contract cycle.

### **CALIFORNIA COUNTIES (PROBATION)**

With 58 counties, California's treatment quality and availability varies widely across the state. According to the Probation Chief's Survey (2007) community based sex offender treatment services are available in 31 of the 50 counties that responded (although the counties of Los Angeles and Contra Costa notably did not respond to this survey). According to the California Coalition on Sexual Offending (CCOSO) and the Association for the Treatment of Sexual Abusers (ATSA) rosters of treatment providers, 63 outpatient treatment providers are available in Los Angeles and 13 outpatient treatment providers are available in Contra Costa County. Twenty-two of the responding counties indicated that the number of treatment slots available for sex offender probationers was sufficient for their county (CPOC Annual Survey, 2007). However, the survey also indicated that several counties felt that they did not have adequate numbers of treatment providers in their counties.

Three counties have developed their own standards and criteria for treatment provider qualifications. These programs are recommended as model programs/ approaches to effective sex offender treatment practices.

*Orange County Probation Department:* This county accepts inquiries, requests and applications from therapists who are registered with ATSA and who have expressed an interest in providing services to the sex offender clientele. Prior to their acceptance, treatment providers are required to meet a variety of staffing and educational criteria. Program directors must have knowledge pertaining to, but not limited to, the dynamics of child abuse, sexual abuse and substance abuse as well as the law and procedures of the legal system. A minimum of five years of work experience in conducting sex offender specific treatment is required. The program director has to have completed graduate studies, training courses, and/or gained significant experience in a majority of topics relevant and necessary for excellence in sex offender treatment. Additionally, therapists must be licensed, under the supervision of a licensed therapist, and have completed 24 hours of relevant training in treatment and intervention in sexual abuse, domestic violence, and substance abuse. All staff must take relevant continuing education each



year (18 CEs) and program directors are responsible for making sure their staff is appropriately trained.

*San Diego and San Francisco Counties:* These counties have participated in the Center for Sex Offender Management grant funded collaboration development projects. Numerous stakeholders have been drawn together in their respective counties to develop protocols for approving community based treatment providers, adherence to best practices, and implementation of emerging, empirically based best practices throughout their countywide sex offender treatment and management system. Both counties are based, funded, and guided by the CSOM model.

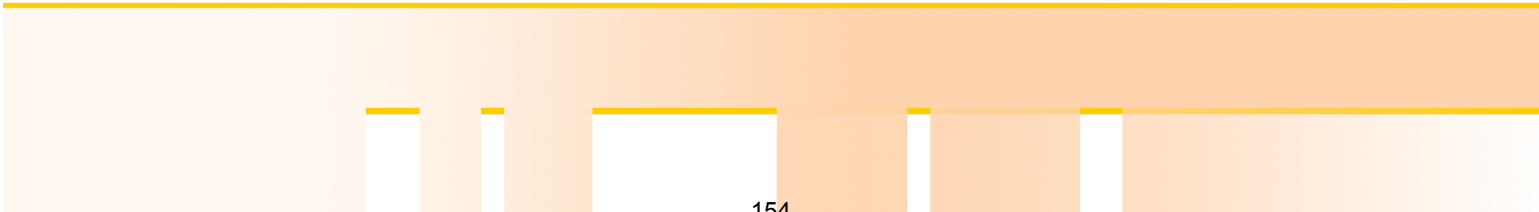
### **Summary of Strengths of Sex Offender Treatment in California**

- The state hospitals have an evidence-based treatment program for sexually violent predators with five phases, including one phase out in the community.
- 22 of 50 California counties indicated that they had enough treatment providers, with several other counties having enough treatment providers to treat sex offenders on probation.
- San Diego, Orange, and San Francisco counties have CSOM funded and based containment models and have guidelines for treatment providers. Shasta County has a promising model without the benefit of a grant.
- Specialized training in the area of sex offenders for treatment providers is available in the state of California.
- Eight counties report they currently use polygraph testing as a component of their sex offender treatment and management strategies.
- CDCR is currently in the bid process for sex offender treatment services for up to 2,700 parolees deemed high risk sex offenders.
- CDCR is currently reviewing a proposed design for providing sex offender treatment within the prison system.
- The SOCP program through the Department of Mental Health for civilly committed sexually violent predators is based on evidence-based practices and are the only publicly funded treatment services for adults in State institutions.

### **Summary of Gaps in Sex Offender Treatment in California**

- The state hospitals provide the Sex Offender Commitment Program to all sex offenders but only 20-30% participate in this treatment program. Many more offenders participate in general treatment groups and vocational offerings.





- No sex offender treatment is available for those offenders incarcerated in prison settings. California is one of few states that do not provide any sex offender treatment in prison.
- While training for implementation of the Static-99 actuarial risk assessment is due to begin in February 2008, there is no additional assessment tool yet implemented to measure dynamic risk factors that would be an asset to supervising agents and treatment providers.
- Most HRSO sex offenders on parole in California are not provided offender-specific treatment consistent with the guidelines discussed above. Some parole sex offenders receive a short term relapse prevention class taught by their parole agent. Parole Outpatient Clinic staff are not systematically trained to treat sexual offenders nor do they have the time to do so using the guidelines discussed above.
- Not all county probation departments (only 8-10) use polygraph testing in their treatment and management of sexual offenders, nor do all providers who treat sex offenders under contract with CDCR-DAPO. Collaboration in treatment and management is not consistent between treatment providers and supervising agents.
- There are currently no guidelines in the state of California for treatment providers who work with sex offenders other than to be licensed by the state of California or to be supervised by a licensed clinician. Some sex offender treatment providers choose to be members of ATSA or CCOSO (specialized organizations who train providers), but many do not. Guidelines for providers that wish to treat sex offenders are needed in the state of California.
- Many counties either do not have known treatment providers who are members of the professional associations that focus on sex offender treatment and management, or do not have enough treatment providers to treat those who are on probation.
- There is no data evaluating the effectiveness of most treatment providers or sex offender programs currently providing treatment to parolees and probationers in the state of California. Therefore, there is no way to measure whether the programs that are currently utilized in the state of California are in accordance with evidence-based sex offender treatment programming.
- It is unknown how many sex offenders are receiving sex offender treatment while on probation and how many complete such treatment. Recidivism data has not been collected in any consistent way across counties.

### **Recommendations for Future Research**

- At the current time the quality of treatment being provided by various treatment providers is unknown. A survey of all treatment providers who state they provide treatment to sex offenders should be conducted. Information regarding the level of education and training of each staff member, ratio of staff to client, number of clients treated, length of program, and specific information regarding programming should be surveyed. If possible, program evaluation with recidivism, dropout and completion rates would be very important to gather on all programs available in the state. Programs throughout the state should be evaluated and surveyed relative to recidivism dropout and completion rates.
- If the current bid packages yield providers, a program evaluation component should be put into place and the program evaluated as part of each program protocol.

### **Proposition 83 and Treatment of Sex Offenders**

Proposition 83 did not address sex offender treatment or management.

## **REGISTRATION, NOTIFICATION AND POST-SUPERVISION MANAGEMENT**

# **8**

## **Registration, Notification, and Post-Supervision Management of Sex Offenders**

### **INTRODUCTION**

Although they are often confused, sex offender registration and community notification are two very distinct concepts. Registration is the process by which a sex offender provides specified information about him or herself to a local law enforcement agency. The purpose of registration is to give law enforcement agencies a means to track sex offenders' whereabouts when pertinent to an investigation of a new sex offense. Community notification, sometimes called "Megan's Law" because of the law that mandates this notification, is the process by which law enforcement agencies provide information to the public about specified sex offenders. The purpose of community notification is to give the public information about sex offenders so that they may protect themselves and their families.

### **TOPICS IN REGISTRATION, NOTIFICATION, AND POST-SUPERVISION MANAGEMENT OF SEX OFFENDERS**

- Sex Offender Registration
  - Current law
  - Compliance
  - Challenges
- Megan's Law -- Community Notification
  - "Active" Notification
  - "Passive" Notification
  - Community Reaction and Education
- A Role for Risk Assessment?
- Strengths and Gaps
- Recommendations for future research

### **SEX OFFENDER REGISTRATION**

#### ***Current Law***

California established a law requiring sex offender registration in 1947, earlier than in any other state. The law epitomizes best or emerging practices in sex offender registration, particularly with regard to adult offenders. Most significantly, it:

- Requires that custodial agencies and probation departments advise persons subject to registration of the duty to register (Pen. Code, § 290.017).
- Requires registration for offenders convicted of a comprehensive list of offenses, including some that are not sexual but which were sexually motivated (Pen. Code, § 290.006).

- Requires an offender to register in person with a local law enforcement agency and to annually update registration information (Pen. Code, § 290 et seq.).
- Requires an offender to register within five working days of his or her release from custody or upon any change of address (Pen. Code, § 290, 290.013).
- Applies retroactively, provided the offender has actual knowledge of the law (Pen. Code, §290.023).
- Applies to offenders who move into the state from another jurisdiction (Pen. Code, § 290.005).

The registration information collected by local law enforcement agencies is uploaded electronically to the California Department of Justice, which maintains California's central sex offender registration database. The state registry is updated every 24 hours, and local law enforcement officers have access to this updated information through a secure law enforcement website.

### ***Compliance***

As of February 1, 2008, 88,240 persons were required to register in California as sex offenders. As of that same date, 15,415 of those persons, or *about* 18 percent, were in violation of their duty

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### ***Challenges***

Sex offender registration is a valuable tool for monitoring sex offenders, especially when they are no longer supervised. Among the challenges of implementing a sex offender registration program are:

- Maintaining accurate information.
- Transferring information to other jurisdictions.
- Generating the necessary resources to manage the program.

To achieve the above-stated goals, it is critical to ensure the following key elements:

- Consistent policies and procedures detailing the registration process for offenders as well as the roles of involved agencies.
- The collection and maintenance of thorough, accurate, and current information on registered sex offenders.
- Collaboration and coordination of efforts among all of the agencies involved in the process to ensure ready access for the purpose of preventing further sexual victimization.

## MEGAN'S LAW – COMMUNITY NOTIFICATION

In 1996, California enacted its Megan's Law, which provided for community notification about persons required to register as sex offenders. The principal purpose of community notification is to assist the public in protecting themselves and their families from potentially dangerous sex offenders living in their neighborhoods. There are two primary methods for disseminating information about sex offenders. "Passive" notification

The principal purpose of community notification is to assist the public in protecting themselves and their families from potentially dangerous sex offenders living in their neighborhoods.

consists of making information available to the public to view if they wish, generally by way of an Internet web site. "Active" notification involves efforts by law enforcement to distribute information to members of the community.

### *"Passive" Notification*

Since 1996, the Department of Justice has been required to make available to the public, via an Internet website, certain information regarding specified persons required to register as sex offenders. For this purpose, the law places offenders into three categories: (1) those about whom information, including home address, is posted; (2) those about whom information, including zip code

but not home address, is posted; and three those about whom no information is posted. These categories were determined by the Legislature based on their determination of the seriousness of a registrant's offense. Approximately 50 percent of the offenders fall into the home address category, approximately 30 percent fall into the zip code category, and approximately 20 percent fall into the no-post category. (Penal Code, § 290.46)

Once the user of the Megan's Law website has read and agreed to the disclaimer, the user is permitted to:

- Search the database by a sex offender's specific name,
- Obtain a listing of offenders based on zip code, city, or county,
- Obtain a detailed personal profile information on each listed offender,
- Use a map application to search geographical locations throughout the state to identify the location of those registrants as to whom the law allows the Department of Justice to display a home address.

As of January 2008, the detailed personal profile of information on each registrant includes:

- Name and known aliases,
- Photograph, physical description, date of birth,
- Crimes requiring registration as a sex offender, and



- Whether the registrant is in violation of registration requirements.

On or before July 1, 2010, the web site also will include the following information:

- The year of conviction of the offender's most recent offense requiring registration,
- The year the offender was released from incarceration for the most recent offense requiring registration, and
- Whether the registrant was incarcerated for any other felony since being released for the offense requiring registration. If this information is unavailable, this fact must be noted on the website. No year for the conviction will be made available unless the Department of Justice also has the year of release from incarceration. (See Pen. Code, § 290.46(a)(2)(A).)

Except as used to protect a person at risk, the information may not be used for purposes relating to health insurance, insurance, loans, credit, employment, education, scholarships or fellowships, housing or accommodations, or benefits, privileges, or services provided by any business establishment.


The law expressly forbids the dissemination of specified information on the web site. Specifically, it may not reveal (1) the victim's name, birth date, address, or relationship to the offender, (2) the name or address of the offender's employer, or (3) the offender's criminal history other than the specific sex offense(s) requiring registration as a sex offender. (Pen. Code, § 290.46, subd. (a)(1).)

The law authorizes a person to use information disclosed on the web site "only to protect a person at risk." Except as used to protect a person at risk, the information may not be used for purposes relating to health insurance, insurance, loans, credit, employment, education, scholarships or fellowships, housing or accommodations, or benefits, privileges, or services provided by any business establishment. The law provides for criminal penalties and civil damages for misuse of information from the website. (Pen. Code, § 290.46, subds. (j)-(l).)

By law, real estate rental contracts and purchase agreements must include a provision advising that

information about specified sex offenders is made available to the public via the DOJ's Internet website, which is at [www.meganslaw.ca.gov](http://www.meganslaw.ca.gov). (Cal. Civ. Code, § 2079.10a.)

Under limited circumstances, a local law enforcement entity also may make specified information about a sex offender available to the public by way of an Internet web site if it determines that this is necessary to ensure the public safety based upon information about the specific offender. In addition to the information available on the Department of



Justice web site, a local entity may make available such information as the type of victim targeted by the offender, relevant probation or parole conditions, and the type of vehicles the offender is known to drive. The offender's address may not be disclosed, however, unless it is disclosed on the Department of Justice web site. (Pen. Code, § 290.46, subd. (g), see Pen. Code, § 290.45, subds. (b).)

### ***“Active” Notification***

Megan's Law also authorizes specified law enforcement entities to notify their communities about the presence of any person required to register as a sex offender “by whatever means the entity deems appropriate, when necessary to ensure the public safety based upon information available to the entity concerning that specific [offender].” (Pen. Code, § 290.45, subd. (a)(1).) Active notification may be done only if the local law enforcement agency has determined that the registrant poses a current risk to the public.

Generally, this information is provided at community meetings or during door-to-door visits of neighborhoods. The information that may be disclosed is broader than that made available on the Department of Justice Internet web site, and it includes the offender's address, even if the offender's address is not disclosed on the web site. The law enforcement entity is required to include with the disclosure a statement that the purpose of releasing the information is for the public to protect themselves and their children from sex offenders. Misuse of the information is punishable as a crime (Pen. Code, § 290.45).

### ***Community Reaction and Education***

Though most of the research on community notification laws has focused on offenders and recidivism, the few efforts to learn about the community's reaction to notification reveal that the reaction has generally been positive. The public's perception is that Internet notification serves a vital role in providing the public with information necessary to protecting their families. (Sex Offender Supervision, 2005).

The Department of Justice has included a substantial amount of educational information on its Megan's Law web site. Additionally, the department has developed a curriculum that can be used at community meetings in conjunction with active notification about sex offenders. As the result of legislation enacted in late 2006, the Attorney General, in collaboration with local law enforcement and others knowledgeable about sex offenders, is in the process of developing further strategies to assist members of the public in understanding and using publicly available information about registered sex offenders to further public safety. These strategies may include, but are not limited to, a hotline for community inquiries, neighborhood and business guidelines for how to respond to information posted on this website, and any other resource that promotes public education about these offenders. (See Pen. Code, § 290.46, subd. (p).).

## A ROLE FOR RISK ASSESSMENT?

Under current law, there is no nexus between the length of the registration period or the dissemination to the community of information about an offender and his or her individualized risk of reoffending or sexual dangerousness. California law is clear that registration is a lifetime requirement. The only exception is for specified offenders who are eligible to petition a court for a certificate of rehabilitation, and for whom the statute allows relief from registration if this certificate is granted (*about 20 percent of sex offenders in California can obtain relief from the duty to register if granted a certificate of rehabilitation.*) (Pen. Code, § 290.5). Likewise, for the most part, public notification about a sex offender is mandated (in the case of passive *Internet* notification) or permitted (in the case of active notification) for an offender's lifetime. A fairly new law, however, may provide useful information for evaluating whether there should be some modifications of these lifetime requirements.

By statute effective September 2006, the Legislature established a statutory scheme for assessing all persons required to register as sex offenders in California for risk of reoffending. For each population of sex offenders—adult males, adult females, juvenile males, and juvenile females—the Legislature either selected, or established a means for selecting, a State Authorized Risk Assessment Tool for Sex Offenders, or SARATSO. (Pen. Code, §§ 290.03-290.07.) By statute, the SARATSO selected for adult males is the Static-99 risk assessment instrument. (Pen. Code, § 290.04, subd. (b)(1).) The continued use of this instrument for adult males, and the selection of instruments for the other populations, will be determined by the SARATSO Review Committee. The Committee, which is composed of representatives from the California Department of Corrections and Rehabilitation, the Department of Mental Health, and the Attorney General's Office, is working in consultation with experts in a variety of disciplines to ensure that, for each population, the SARATSO is “the most reliable, objective, and well-established protocol[] for predicting sex offender risk of recidivism.” (Pen. Code, § 290.04, subd. (a)(2).

The law contemplates that, as of January 1, 2013, each person required to register as a sex offender in California will have been assessed for his or her risk of reoffending. (Pen. Code, § 290.06.) This information will be available to probation offices, courts, correctional facilities, and law enforcement.

### Summary of Strengths in Registration and Notification:

- Public support for sex offender registration and notification is strong.
- Law enforcement support for sex offender registration is strong.
- Most offenders are in compliance with registration requirements.
- Efforts to enforce the registration requirements have increased.

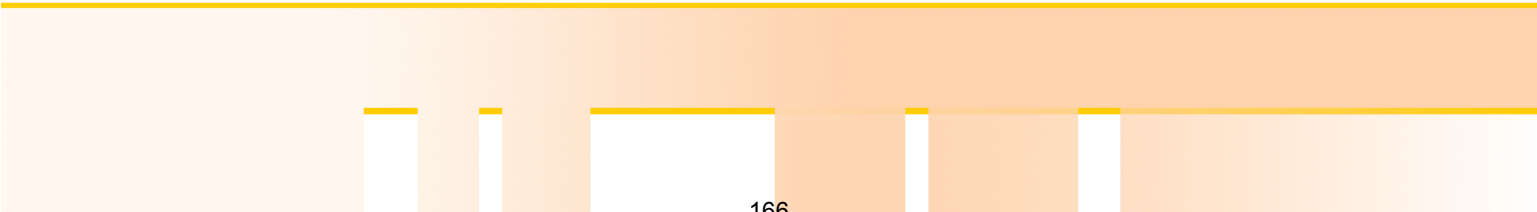
### **Summary of Gaps in Registration and Notification:**

- There is no law requiring law enforcement agencies to verify an offender's registered address, either by utilizing field compliance and/or mail-in verifications on an ongoing basis. Law enforcement agencies that currently have registration verification and enforcement teams are generally unfunded and pulled together from existing, limited resources.
- There is no requirement for a system to enable local law enforcement to coordinate with probation or parole in monitoring registrants.
- There is a large percentage (18 percent) of persons required to register as sex offenders who are not complying with registration requirements. However, law enforcement has made great strides in locating out-of-compliance offenders, and it is likely that most offenders in this group were convicted many years ago and have not come to the attention of law enforcement since their convictions.
- There is no required timeline for entry of registration data by local law enforcement into the state's sex offender registration database.
- There is no requirement that a court, when reversing, vacating, or dismissing a sex offense conviction, notify the Department of Justice Sex Offender Tracking Program in writing. The only notification goes to the department's Automated Criminal History System, which is a distinct software system that does not interface with the sex offender database.
- There is no requirement that local law enforcement entities establish policies and procedures for active community notification.
- There is no requirement for an entity doing an active community notification or sex offender sweep to notify other affected agencies in the county.
- There is no requirement that a victim be notified before either the Department of Justice (in the case of passive notification) or a local law enforcement agency (in the case of active notification) discloses information about a sex offender to the community.

### **Recommendations for Future Research:**

- Law enforcement agency active notification policies and procedures are unknown. To develop a plan incorporating best practices with respect to such policies and procedures, and determine the best ways in which they can be provided to all law enforcement entities that are authorized by law to do active notifications, a survey of law enforcement agencies is necessary.

- The impact on victims of sex crimes from community notification efforts (passive and active) is unknown. To develop recommendations for ways in which the needs of sex crimes victims can be balanced with the public's right to know about dangerous offenders in their communities, a study of sex crime victims is necessary.
- The effectiveness of efforts to educate the community regarding the realities versus the myths about sex offenders and sex crimes is unknown. How informed is the community about sex offenders and sex crimes? Have they utilized the community efforts of the state and local agencies? Are local citizen groups involved in educating the community?



## SUMMARY OF GAPS

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**This is a summary of all of the gaps in California’s practices as they relate to adult sex offender management:**

### **Summary of California’s Gaps in Victim Assistance**

- Lack of a statewide strategic plan for victim assistance resulting in inadequate planning for victim services and fragmented funding
- Lack of funding for a victim advocate as part of Vertical Prosecution team
- Lack of coordination among government agencies resulting in conflicting and duplicative policies
- Uncertainty in funding from year-to-year
- Lack of communication with and among service providers on significant policy issues
- Lack of public awareness about victim compensation benefits and other rights of crime victims

### **Summary of Gaps in Numbers and Distribution of Sex Offenders**

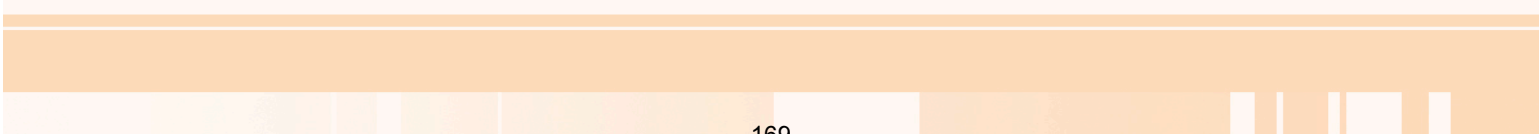
- No entity in California – whether state agency, academic institution or other – has assumed or been appointed to provide leadership responsibility for conducting key research on topics related to the management of the state’s sex offenders. California has consistently been a “consumer” of policy research and other research materials produced elsewhere, frequently by much smaller states and agencies.
- CDCR does not have a system of electronic record keeping (case files) for those under its authority and so is unable to provide much flexibility in assembling new sets of data or retrieving information from older records.
- Data collection regarding sex offenders on county probation varies considerably from county to county. Consistency is needed to allow the information to be gathered and analyzed at a statewide level. Some counties have been unable to provide data needed even for the basic overview provided in this section of the Report.
- As is evident from the material provided in this section of the Report, much information about California sex offenders is “approximate” and requires rather complicated explanations. In part this is because the systems that have evolved are quite complex in order to deal with the many necessary exceptions and contingencies. Better defined baseline categories and measurements need to be developed to allow maximum simplicity while acknowledging the unavoidable complexity of the real world.
- Due to the absence of good baseline data on California sex offenders, it is extremely challenging to identify and track important changes over time. Issues such as sentencing requirements, registration requirements, community notification requirements, residency requirements and similar



policy changes that have been enacted and implemented, are difficult if not impossible to effectively evaluate.

- The “metrics” used to classify sex offenders, sex offenses, recidivism and similar important dimensions are not consistent across systems, making it hard to reach and state clear conclusions.
- Despite the often-exemplary efforts of various agency spokespersons, California has no authoritative source of data about sex offender matters that is available to the media and to other interested parties. As a consequence, at times there appears to be confusion and, in some cases, misinformation when it comes to informing the public about the realities of sex offender management.
- There is no good source of statewide data tracking rates of reports, arrests, charges, prosecutions, outcomes and dispositions related to sex offenses. It is, therefore, nearly impossible to ask and answer such questions as whether increased sanctions in California decrease offending, decrease reporting, decrease satisfactory plea bargains or have other unintended consequence.

### **Summary of Gaps with in Sex Offender Recidivism**

- There is no broadly researched and replicated body of data about the recidivism of California sex offenders that would provide baseline measures to guide policy and evaluate the success of any new efforts to reduce recidivism.
  - No information is available at this time regarding sexual recidivism for sex offenders on probation in California.
  - Policy makers have insufficient resources for obtaining reliable information about recidivism nor do they have ready access to expert assistance in interpreting the complex recidivism data available from multiple sources.
  - A more comprehensive study on the California sex offender population who have been released from prison, comparable to the one conducted by Langan (2003) is urgently needed to fully understand static and dynamic risk factors associated with the prediction of recidivistic sexual violence against women and children among different types of paroled offenders (various subtypes of sex offenders, violent offenders, and violence-plus offenders).
  - The operational definition of “sex offender recidivism” used in any future California recidivism studies needs to be standardized to improve the accuracy and comparability of the data.
  - The current classification system used to compile prison statistics needs to be modified to more readily track not only those entering prison as a consequence of a new sex offense conviction but also those who have prior sex crime convictions but return to prison as a result of a different type of (non-sexual) crime.
- 

- Given the high level of public fear that sexual violence against children and against women can generate in the community, special attention should be given to those sex offenders who are evaluated, using the best available methods, and found to be at higher risk of re-offending. An ongoing research program could determine the most effective methods for managing those offenders and then resources proportionate to their risk to the community could be devoted to reducing their risk to further victimize.
- The community-based High Risk Sex Offender treatment programs for parolees provided by private-sector practitioners contracted by CDCR now serve approximately 300 offenders and are currently in the process of expanding to over 2,700 additional treatment slots. The current programs do not have a research component to track recidivism. There is an indication that the new expansion will include some type of evaluation. Such an evaluation will have the opportunity to - and definitely should - carefully examine multiple factors associated with sex offender recidivism.
- There are indications in the research that there is a relatively small number of very high risk sex offenders who have committed and are likely to continue to commit a large number of sex offenses. Such a pattern is commonly found among those chronic violent (non-sex crime) offenders identified in career criminal research. Studies of violent offenders agree that a small group (4-6%) of chronic offenders (5-plus arrest records) are responsible for an overwhelming majority (70% to 80%) of those serious violent index crimes reported to police. Not enough is known about these very high risk individuals. Of course it is the intent of the California Civil Commitment system for sex offenders (Sexually Violent Predator Program) operated by the Department of Mental Health, to identify such individuals and address their risk issues, in a custody setting, in a very intensive and costly treatment program. Recidivism data should be carefully gathered on those who are identified as high risk but who do not meet all the criteria for civil commitment. The goal would be to ground future efforts to better manage such individuals on a solid knowledge base.
- Little is known about the extent to which recidivism rates climb after the period of formal supervision and control under the authority of the criminal justice system (parole and probation) ends and sex offenders are simply living in the community as “free” citizens. Research about post-supervision recidivism should be undertaken.



## **Summary of California's Gaps in Investigation and Supervision of Sex Offenders**

### **INVESTIGATION and PROSECUTION:**

- **FUNDING**
  - Lack of funding for Vertical Prosecution and Specialized Units
  - Lack of funding for Training for Prosecutors
- Specialized Units not available in all counties
  - Vertical Prosecution is more expensive than traditional prosecution management and the fiscal commitment challenges many if not most, prosecutor offices.
- Lack of training for all prosecutors who handle sexual assault cases
- Small number of communities that have developed collaborative teams, such as SARTs, MDICs, FJCs and SAFE Task Forces

## **Summary of California's Gaps in Supervision of Sex Offenders**

- The Division of Adult Parole Operations does not utilize polygraph examiners, which does not allow full utilization of the Containment Model. Current bids in progress have polygraph exams (one or two if approved) as part of potential treatment provider contracts.
- Training in utilization of GPS and enforcement of residency restrictions has replaced specialized sex offender management training.
- Specialized HRSO caseloads have not been utilized in smaller parole units (in more rural areas).
- Information on each county's practices is not available at this time. Many counties do not have specialized sex offender caseloads, many specialized case loads are too large, sex offender training must be sought from outside, and most counties do not utilize the polygraph exam as part of the Containment Model.
- Each county probation department appears to have different resources and methods for supervising sex offenders. One uniform model throughout the state would be the most evidence-based method of ensuring that the Containment Model was practiced in a consistent manner.
- Personnel shortages hamper manageable caseload abilities.


## **Summary of Gaps in Housing of Sex Offenders in California**

- There is a lack of transitional housing for parolees.
- There is no policy or procedure for CDCR to assist in finding suitable housing for parolees. Parolees are expected to find their own housing. Efforts to assist with identification of compliant housing are hampered by the lack of housing options in urban areas.
- The effect of residency restrictions on probationers is unknown.

- Jessica's Law does not identify who is responsible for enforcing its residency restrictions after the sex offender is released from probation or parole.
- Jessica's Law does not impose a penalty for violators who have been released from probation or parole.

### **Summary of Gaps in Sex Offender Treatment in California**

- The state hospitals provide the Sex Offender Commitment Program to all sex offenders but only 20-30% participate in this treatment program. Many more offenders participate in general treatment groups and vocational offerings.
- No sex offender treatment is available for those offenders incarcerated in prison settings. California is one of few states that do not provide any sex offender treatment in prison.
- While training for implementation of the Static-99 actuarial risk assessment is due to begin in February 2008, there is no additional assessment tool yet implemented to measure dynamic risk factors that would be an asset to supervising agents and treatment providers.
- Most HRSO sex offenders on parole in California are not provided offender-specific treatment consistent with the guidelines discussed above. Some parole sex offenders receive a short term relapse prevention class taught by their parole agent. Parole Outpatient Clinic staff are not systematically trained to treat sexual offenders nor do they have the time to do so using the guidelines discussed above.
- Not all county probation departments (only 8-10) use polygraph testing in their treatment and management of sexual offenders, nor do all providers who treat sex offenders under contract with CDCR-DAPO. Collaboration in treatment and management is not consistent between treatment providers and supervising agents.
- There are currently no guidelines in the state of California for treatment providers who work with sex offenders other than to be licensed by the state of California or to be supervised by a licensed clinician. Some sex offender treatment providers choose to be members of ATSA or CCOSO (specialized organizations who train providers), but many do not. Guidelines for providers that wish to treat sex offenders are needed in the state of California.
- Many counties either do not have known treatment providers who are members of the professional associations that focus on sex offender treatment and management, or do not have enough treatment providers to treat those who are on probation.
- There is no data evaluating the effectiveness of most treatment providers or sex offender programs currently providing treatment to parolees and probationers in the state of California. Therefore, there is no way to measure whether the programs that are currently utilized in the state of

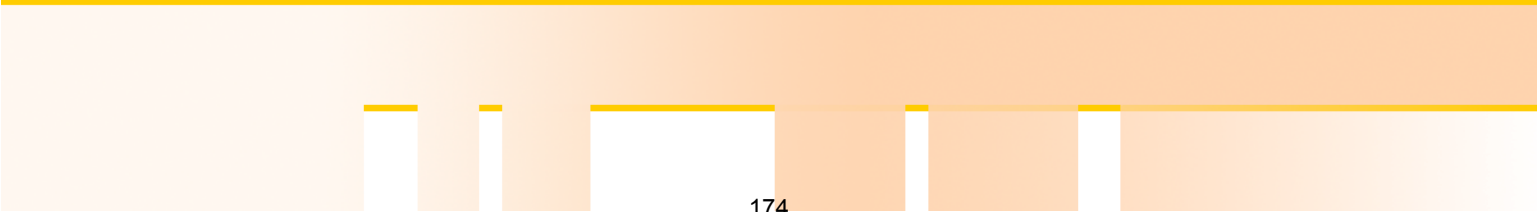


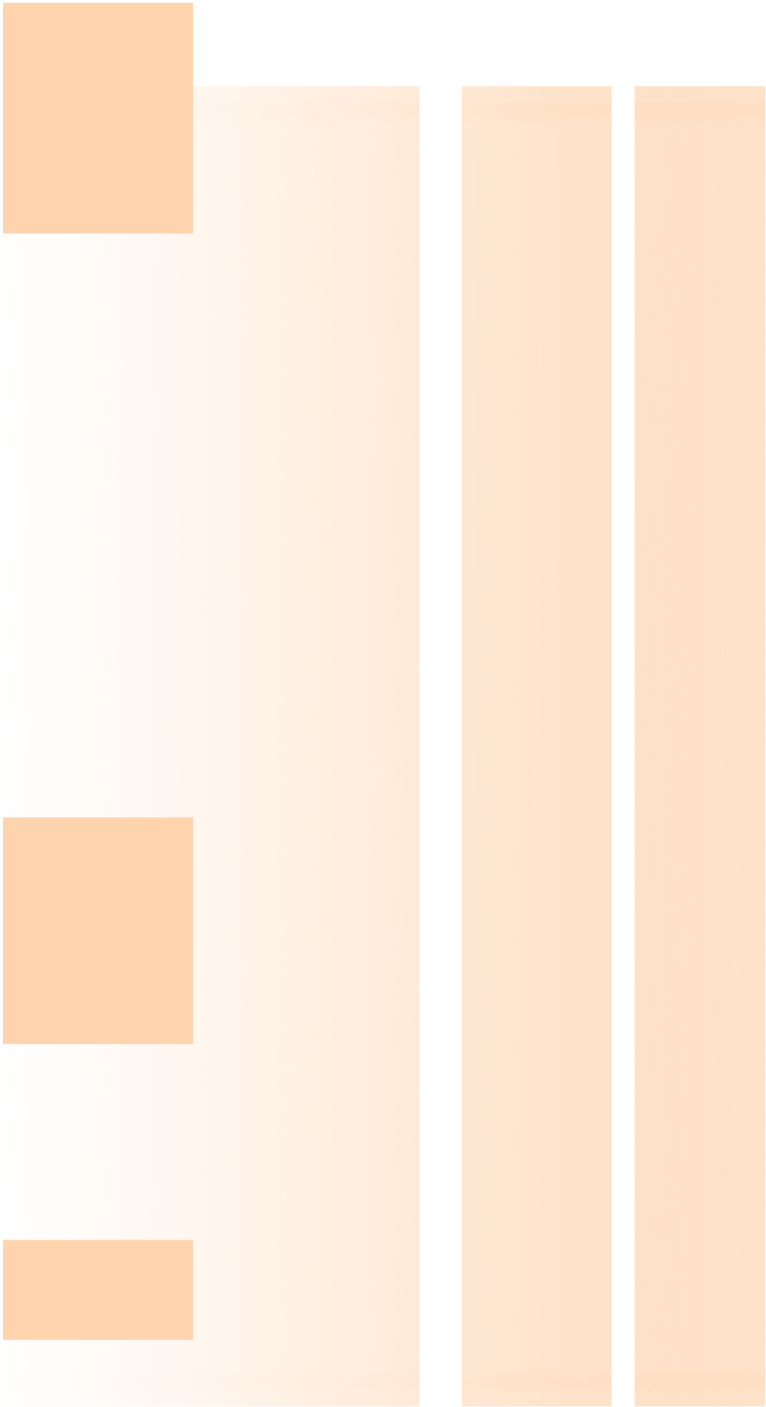
California are in accordance with evidence-based sex offender treatment programming.

- It is unknown how many sex offenders are receiving sex offender treatment while on probation and how many complete such treatment. Recidivism data has not been collected in any consistent way across counties.

#### **Summary of Gaps in Registration and Notification:**

- There is no law requiring law enforcement agencies to verify an offender's registered address, either by utilizing field compliance and/or mail-in verifications on an ongoing basis. Law enforcement agencies that currently have registration verification and enforcement teams are generally unfunded and pulled together from existing, limited resources.
- There is no requirement for a system to enable local law enforcement to coordinate with probation or parole in monitoring registrants.
- There is a large percentage (18 percent) of persons required to register as sex offenders who are not complying with registration requirements. However, law enforcement has made great strides in locating out-of-compliance offenders, and it is likely that most offenders in this group were convicted many years ago and have not come to the attention of law enforcement since their convictions.
- There is no required timeline for entry of registration data by local law enforcement into the state's sex offender registration database.
- There is no requirement that a court, when reversing, vacating, or dismissing a sex offense conviction, notify the Department of Justice Sex Offender Tracking Program in writing. The only notification goes to the department's Automated Criminal History System, which is a distinct software system that does not interface with the sex offender database.
- There is no requirement that local law enforcement entities establish policies and procedures for active community notification.
- There is no requirement for an entity doing an active community notification or sex offender sweep to notify other affected agencies in the county.
- There is no requirement that a victim be notified before either the Department of Justice (in the case of passive notification) or a local law enforcement agency (in the case of active notification) discloses information about a sex offender to the community.





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**APPENDIX A**

**MAPPING OF  
SEX OFFENDERS IN 10  
CALIFORNIA COUNTIES  
USING GIS**

## INTRODUCTION

In this section, the idea of GIS mapping will be presented along with the types of errors that will be encountered when attempting to merge data from different agencies. The results of mapping efforts in 10 counties will be used to provide an overview of how Geographic Information Sciences (GIS) can be used to help manage offender populations, determine necessary resources by county, and ensure compliance with the stipulations as set forth in SB1128. When accurate, this kind of visual placement of the HRSO in relation to areas restricted by SB1128 can allow for a proactive approach to developing treatment and care and to effectively trace the whereabouts of offenders in the community.

## TOPICS IN MAPPING OF SEX OFFENDERS IN 10 CALIFORNIA COUNTIES USING GIS

- Brief Introduction to Geospatial Data
- Mapping HRSOs: The Good, the Bad and the Ugly of Assembling the Requisite Data
- Classifying Files
- Mapping the County Streets and Roads
- Mapping Schools
- Mapping Parks
- Mapping Offenders
- Conclusion

## BRIEF INTRODUCTION TO GEOSPATIAL DATA


Geographical Information Science (GIS) programs are useful tools that can help scientists, policy makers, planners, those involved in disaster preparedness, and those charged with offender management. With the passage of SB1128, it seems only logical to embrace this technology to ensure that those required to register under this new legislation steer clear of zones that are excluded from their realm of freedom. The term GIS emerged in the paper published by Goodchild (1992). One of the most general definitions was developed by consensus among a group of 30 specialists:

Geographic Information Systems—A system of hardware, software, data, people, organizations, and institutional arrangements for collecting, storing, analyzing, and disseminating information about areas of the earth (Dueker & Kjerne, 1989, pp. 7-8).

GIScience has evolved significantly over the past 15 years and it is now part of the title of several renamed research journals<sup>1</sup> and has become the focus of the US University

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<sup>1</sup> International journal of geographical information science (formerly known as the international journal of geographical information systems), cartography and geographic information science (formerly American



Consortium for Geographic Information Science. This consortium involves 60 plus research universities that engage in research agenda setting, lobbying for research funding, and other related activities (Longley, Goodchild, Maguire & Rhind, 2001, p.21). “The twentieth century has produced a vast change in the hardware used for geographic measurement. In fact, the technology used for geographic information may have changed more in the 20<sup>th</sup> century than it did in the previous 4000 years” (Chrisman, 2002, p.11). Merged with the tools used in the field to record spatial data the computer has become an invaluable part of GIS. The various software applications that facilitate the mapping process exist in a highly competitive and proprietary realm of the business world and the “separate specialties known as digital cartography, spatial analysis, remote sensing, multipurpose land information systems, and a host of others have converged to create an interdisciplinary focus on geographic information systems” (Chrisman, 2002, p.11). Indeed, the partnering of social science research and employing GIS to assess the efficacy of public policy and local crime control efforts is not so far removed from this emerging technology.

Maps are underutilized as analytical tools; many applications are overlooked. We use maps most often for representing statistical data, but any information can be mapped using the appropriate technique as long as it will be useful or helpful. A major component of the mapping decision is the judgment as to whether a map is worth making or not. The rule of thumb is that if you have to think very long about whether it would be worth doing, it probably isn't worth doing. A map ends up being a kind of model because it simplifies reality by presenting only a few facts of interest. Keeping the map simple is not always the best route to take; some of the information not used can hinder the view we are trying to create. Generally speaking, the application and resources available determine what kind of map will be most appropriate in any given situation.

There are three kinds of maps that are generally used to depict point data: dots/spots/pins, choropleths, and isolines, or in lay terms, context, display, and analytical. Context maps use broad geographical information such as census poverty data to illustrate the socioeconomic condition of the area under study. Display maps show single or multiple variables such as property conditions across a limited geography, and analytical maps that layer and analyze multiple variables by a small and broad geography are considered the most advanced. Once the type of GIS output is selected, community agencies and partners need to decide how many maps are produced and shared.

### **MAPPING HRSOS: THE GOOD, THE BAD AND THE UGLY OF ASSEMBLING THE REQUISTIE DATA**

When thinking about the distribution of offenders, it is one thing to examine a table with aggregate numbers that describes the distribution of a population you are studying and

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cartographer and cartography and Geographic information systems, computers and geosciences), geoinformatica, computers, environment and urban systems).



another to examine their distribution visually. Take for example Table A-1 below. This table illustrates the numerical distribution of high risk sex offenders in the 10 counties used in this study. The numbers tell an interesting tale yet these numerical depictions do not represent how offenders are disbursed throughout the county and if they are in compliance with the 2,000 foot stipulation provided for in SB1128. If this population of offenders is to be effectively monitored, and knowing how many exist in a specific county is a good starting point, but using GIS to develop a comprehensive illustration of how this group is disbursed across the county in relation to the placement of schools and parks is even better. When data visualization is available, maps can be produced to aid in assessing the whereabouts of offenders required to register under SB1128.

The quality and integrity of these maps depends largely on how well the offender's spatial identifier was preserved through the registration process (e.g., accuracy of the address reported by the offender and the accuracy of the map elements being used to determine his position in relation to park and school restrictions). Often, the map maker knows how many things exist within a region but not exactly where. Point and line information will occur as a count per region (for example, 25 people or 50 miles of road) while aerial data will occur as absolute units per region (like 35 acres of industrial land or 100 acres of agricultural land). The actual distribution of people, roads, or industrial/agricultural land with the regions remains a mystery as it changes frequently. Regardless of the information used, the resulting maps will be highly generalized and should be treated only as another tool that can be used when planning and assessing how policies are implemented. When assessing the quality of the map and its points of concern or interest, it is necessary to focus on several critical factors.

<b>Table A-1 Distribution of High Risk Sex Offenders in 10 California Counties</b>	
<b>County</b>	<b>Total</b>
<b>Alameda</b>	125
<b>Kern</b>	167
<b>LA</b>	931
<b>Orange</b>	106
<b>SAC</b>	242
<b>SanBer</b>	276
<b>SantaCla</b>	167
<b>SanDiego</b>	132
<b>Shasta</b>	66
<b>Tulare</b>	45
<b>Totals</b>	<b>2257</b>

In an attempt to provide the most accurate maps possible, each county was contacted and asked to provide their most recent street and centerline files. Due to proprietary issues, maps retained by counties that are the most densely populated (like Orange, San Diego, Los Angeles, and Alameda) were not released, and in some cases, costs of up to \$300,000 were quoted to gain access to this information. For the counties that claimed proprietary

restrictions, we relied on maps provided by the U.S. Census Bureau to create the representations that will follow. Maps from the remaining five counties (Shasta, Santa Clara, Tulare, Kern, Sacramento, and San Bernadino) were provided either through public internet download or by the county office responsible for retaining geospatial data. Different error ratios were discovered when using the schools' files and Tiger maps, the schools' files and county-provided maps, offender files and Tiger maps, and offender files and county-provided maps. The implications these inaccuracies present for monitoring offenders' residency requirements will be discussed at the end of this section and in the concluding commentary in this report.

## CLASSIFYING FILES

As the files for this project came from diverse agencies (some from the county, some downloaded from the internet and others from the U.S. Census Tiger maps), it is important to understand the levels of accuracy and detail for the various files used to configure the GIS for HRSOs registered with CDCR's DAPO. Each county map is comprised of a file containing the centerline data (streets, highways and addresses), point location for schools, point location for parks in some counties, offender residence as reported to CDCR in November 2007, water files, and county borders. After a thorough examination of each file was conducted, Table A-2 presents the level of accuracy (1 being lowest and 10 being highest) for each file in each county.

<b>Table A-2 Level of accuracy for geospatial and database files in each county</b>										
	<b>Sacr</b>	<b>Orange</b>	<b>SanBern</b>	<b>Tular</b>	<b>Shas</b>	<b>SanDie</b>	<b>SanCla</b>	<b>Ala</b>	<b>Kern</b>	<b>LosAng</b>
<b>Centerline</b>	9	7	9	7	7	7	8	8	6.5	8
<b>Schools</b>	10	6.5	9	8	9	7	8	10	8	10
<b>Offenders</b>	9	7	8	8	9	6	7	8	8	7
<b>Parks</b>	7	9	0	2	0	0	5	8	0	8
<b>Water</b>	10	8	7	8	9	0	8.5	7.5	8	8
<b>County Border</b>	7	8	9	8	8	8	8	8	6	8

The next two tables present the status of buffers for parks and schools (as some counties did not provide data for parks or the data was unusable) and the percentage of error experienced when matching schools and offenders locations to the centerline files. As you can see, only some of the parks were mapped and the level of error for some of the counties is particularly high. More accurate results can be obtained by using files from the counties that are updated regularly and maintained with a high degree of accuracy. In addition, the files from the State Department of Education that provides data on the schools could also be updated to reflect a more accurate depiction of the dispersion of schools in California communities. As only half of the ten counties had reliable information on parks, data from the US Census files was used to define as many park locations as possible in each county. The area of the community that is available for

HRSOs to take up residence is very small when factoring in the 2000 foot buffer for both parks and schools, even in light of having only some of the park locations in each county identified. Because only half of the ten counties had reliable information on parks, data from the US Census files was used to define as many park locations as possible in each county.

<b>Table A-3. School and park buffers applied to county map</b>										
	<b>Sacr</b>	<b>Orange</b>	<b>SanBern</b>	<b>Tular</b>	<b>Shas</b>	<b>SanDie</b>	<b>SanClar</b>	<b>Ala</b>	<b>Kern</b>	<b>LosAng</b>
<b>Schools Buffered</b>	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
<b>Parks Buffered</b>	Y	Y	N	N	N	N	Y	Y	N	Y

<b>Table A-4. Percentage of errors experienced when mapping offenders/schools in each county</b>										
	<b>Sacr</b>	<b>Orange</b>	<b>SanBern</b>	<b>Tular</b>	<b>Shas</b>	<b>SanDie</b>	<b>SanClar</b>	<b>Ala</b>	<b>Kern</b>	<b>LosAng</b>
<b>HRSO Address</b>	9%	32%	11%	17%	19%	8%	6%	5%	20%	7%
<b>School Address</b>	10%	11%	9%	41%	19%	17%	17%	9%	14%	10%

## MAPPING THE COUNTY STREETS AND ROADS

When putting together maps that will be used to plan for the allocation of resources, for the tracking of offenders who are high risk, and for ensuring that state laws are followed and violations discovered before another citizen is victimized, it is tantamount that the most recent and most reliable data be part of the equation. For example, the majority of centerline data<sup>2</sup> presented here is based on Census mapping. The census data is concerned with the designation and recording of census tracts and often these files do not provide the necessary coordinates required for precise and accurate address mapping. Even further, this data is often out of date within 18-24 months during which times housing tracts are designed, new streets are created, and new homes erected and demolished almost daily. For the purposes of this report, attempts were made with each county to provide us with street centerline data for our mapping efforts but only two were able to provide these files. The remaining counties cited proprietary agreements that forbade them from sharing their information. In some cases, the census maps were more accurate than the county maps that were provided for this analysis.

<sup>2</sup> Centerline files have been mentioned earlier in this paper and will be referred to in most of the discussion regarding the GIS mapping process. Centerline files represent the streets, roads, and highways in each county.

## **MAPPING SCHOOLS**

The best data that was already assembled and ready to use for mapping the location of the schools in the ten counties came from California State Department of Education (CSDE) website (CSDE, 2007). Street addresses contained in this database (point locations) were used to map all schools that serve children under the age of 18 in each county. As noted in Table A-4 above, there was an error ratio as high as 41% for Tulare County and as low as 9% in other counties when attempting to pair schools with street addresses and centerline data obtained through the census and county GIS office.

## **MAPPING PARKS**


Mapping parks is going to require a concentrated effort by all counties in the state to gather the necessary information and provide CDCR with regularly updated data points (or preferably polygon files) that depict the location of the entire park area. At this point in time, it has been nearly impossible to gather this information in a way that will serve this preliminary assessment of compliance by high risk sex offenders when choosing their residence but information gathered from the US Census Bureau was used to define the locations of as many parks as possible. It should be noted that that reliable park information is crucial to developing an understanding of how much area remains for sex offenders to live without violating the provisions of SB1128. Reliable park information is crucial to developing an understanding of how much area remains for sex offenders to live without violating the provisions of SB1128. As noted above, when each school in the county is placed on a map and buffered by 2000 feet, the area for offenders decreases significantly. When accurate parks data can be assembled, pinpointed on the maps, and buffered by 2000 feet, the livable space for HRSOs will be reduced significantly.

## **MAPPING OFFENDERS**

Provided offenders give authorities a ‘viable’ address and that centerline files for each county are accurate, mapping offenders and tracking their proximity will be relatively easy. New offenders will need to be added to the database each month and mapped, and offenders who are no longer required to register will also need to be purged from the maps. This initial phase of the mapping project only incorporates HRSOs who are under the jurisdiction of the Department of Corrections and Rehabilitation. In the future, offenders on probation who are supervised by county probation departments will also need to be included in the mapping process. Mapping offenders in this way can provide administrators with valuable information required to allocate resources and to ensure that those who are in violation move towards compliance or be returned to prison/jail.

## **CONCLUSION**

Use of Geographical Information Systems can be a useful tool to map the location of high risk sex offenders. With only the schools and some parks accounted for, the area available for sex offenders to take up residence is very small in the inner city area where



low income housing is abundant. If this law is to be administered uniformly it will be essential to have up-to-date and accurate files that will contribute to the GIS process for tracking HRSOs in our communities. This tool can be used to help soon-to-be-released offenders understand where in the community they can live as set forth by SB1128.

At the practical level, it is important to understand geographic information as the product of institutions. Very little geographic information is collected by individuals working just for their personal pursuits or interests. In part, an organization is required to coordinate and to cover a large area consistently. It is evident that CDCR and the 58 county departments of probation across the state fall into this category. The need for geographic information systems arises from larger units in the society and their voices are often the only motivation institutions have to guide them in their efforts. In the case of CDCR, one main goal is to protect society from predatory groups of citizens; in this case, sex offenders.

Yet, the world surrounding GIS changes rapidly as people and institutions adopt new ways of thinking about how to solve complex social problems. The essential message of GIS is to integrate diverse forms of geographic information. At the root, the diversity comes from different goals of different people as they measure their internal and external environments and try to comprehend how each interacts with one another.

Because of the discrepancies noted in gathering accurate data from the counties in this sample, it should be noted that only by using accurate spatial information can GIS be used as a dependable and accurate tool that can potentially assist with offender management, resource planning and allocation, and monitoring the level of available space, and where this space happens to be located. All these areas can benefit from the use of a comprehensive GIS because of the lack of accurate and well-defined GIS data on the location of parks and schools in the 10 counties discussed here. These facts support the theory of an invisible hand of placement that dictates the residential options available for the sex offender population. As this portion of the research has only used the 2,000 foot buffer for schools teaching minor children, when the parks are factored in, the availability for housing will be reduced significantly. If SB1128 is to be followed using the letter of the law, those students who are home schooled will also need to be accounted for. When their presence is factored into the geospatial equation, only minute areas of the community will be inhabitable by those required to register under SB1128 as there are also 64,718 children who receive alternative education (maybe home schooled) in the ten counties presented in this research (CDE, 2008).

### **Summary of Strengths when using GIS to map HRSOs**

- Virtually every aspect of offender management can be addressed by using a strategic and tactical approach to understanding changing demographics, housing availability, income inequality, with GIS becoming the catalyst for displaying visual and spatial assessments of the HRSO population, allowing for more informed decisions.
- GIS mapping is an excellent mechanism for planning and development of new approaches to offender management.
- Monthly assessments of the accuracy of GIS data will allow for a robust report regarding the distribution of HRSOs in California counties. The information can be used as a bridge connecting the efforts of state and local law enforcement.

### **Summary of Considerations when using GIS to map HRSOs**

- Data necessary to create a reliable GIS is difficult to obtain and can be costly (as high as \$300,000 for centerline files in Orange County).
- Using best guess estimates using out-of-date data when mapping offenders, parks, and schools does not allow for a true visual representation of the dispersion of offenders in our communities and is highly susceptible to error.<sup>3</sup>
- Discrepancy in how local jurisdictions restrict the use of files essential to the creation of accurate representations of streets, roads, highways, and parks can be solved if state/county agencies can collaborate to share this coveted and expensive information.
- Flaws in the dataset containing the addresses provided to the Department of Corrections and Rehabilitation by the offender required a labor intensive effort to correct the data in order to produce a point location for the HRSO.
- The reasons for these flaws are most likely due to offender error. At this point in the research it would be premature to infer that the reporting of the address that does not match the available street files is intentional and

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<sup>3</sup> Given the growth of many California communities, the datasets that are made available to the public are often out of date. For example, the database of schools obtained from the California Department of Education contained many errors when trying to match locations with the street/road map obtained via public access (Census, download, or end-user agreement). Both centerline data from the Census and California Department of Education list of schools were last updated in 2005. While the resulting maps are accurate due mainly to the number of hours spent cleaning up the data, it should be noted that when more up-to-date files that are created to interface with each other, the process can become semi-automated in nature only requiring periodic updates.

should not be construed as willful misrepresentation on the part of the offender.

- Closing the gaps in data collection will allow GIS to become a more precise mechanism for identifying the proximity of a sex offender's primary residence to schools and parks, areas protected by SB1128.
- As is, GIS will result in the identification of "false positives". In other words, using the data in its present state, offenders may be incorrectly identified as being in violation of the 2,000 foot buffer.
- The reasons for these flaws are most likely due to offender error. At this point in the research it would be premature to infer that the reporting of the address that does not match the available street files is intentional and should not be construed as willful misrepresentation on the part of the offender.
- Closing the gaps in data collection will allow GIS to become a more precise mechanism for identifying the proximity of a sex offender's primary residence to schools and parks, areas protected by SB1128.
- As is, GIS will result in the identification of "false positives". In other words, using the data in its present state, offenders may be incorrectly identified as being in violation of the 2,000 ft. buffer.

### **Recommendations for Future Research**

- Continue to obtain data from all counties, refine the numerous errors, and work to create a system of collaboration within the state so that all county data can be obtained and updated on a continuous basis utilizing the most state-of-the-art GIS mapping systems.

**INFORMATION ON GLOBAL  
POSITIONING SYSTEM  
TRACKING**



## B-1. Estimated Annual Costs Relating to Active and Passive GPS Units and Parole Supervision for the State of California (as of December 2007)

	Total Units	Daily Cost per Unit	Total Daily Cost	Total Annual Cost
Active	2189	\$ 8.75	\$ 19,153.75	\$ 6,991,118.75
Passive	520	\$ 5.00	\$ 2,600.00	\$ 949,000.00
Total			\$ 21,753.75	\$ 7,940,118.75

	Parol Agent Ratio	Number of Agents Required	Agent Monthly Salary*	Total Monthly Agent Costs	Total Annual Agent Costs	Total Annual + Overtime Costs
Active	20:01	109.45	\$ 7,437.00	\$ 813,979.65	\$ 9,767,755.80	\$ 10,853,149.56
Passive	40:01	13	\$ 7,437.00	\$ 96,681.00	\$ 1,160,172.00	\$ 1,160,172.00
Total				\$ 910,660.65	\$ 10,927,927.80	\$ 12,013,321.56

	Parol Agent Ratio	Number of Agents Required	Monthly Overtime Hours per Agent	Estimated Overtime Hourly Cost**	Monthly Overtime Costs/Agent	Total Monthly Overtime Costs	Total Annual Overtime Costs
Active	20:01	109.45	\$ 20.00	\$ 41.32	\$ 826.40	\$ 90,449.48	\$ 1,085,393.76
Passive	40:01	13	\$ -	\$ -	\$ -	\$ -	\$ -

	Total Annual Costs + Overtime Costs	Grand Total Agents + Units Cost
Active	\$ 10,853,149.56	
Passive	\$ 1,160,172.00	
Total	\$ 12,013,321.56	\$ 19,953,440.31

\* CDCR salary estimate

\*\* Estimated hourly over time salary using 180 hrs/ month and a monthly salary of \$7437.00

## DOES GLOBAL POSITIONING SYSTEM TRACKING WORK AND FOR WHOM?:


To date, there have been numerous studies that have found both positive and negative results with EM, generally, and GPS, specifically. On the positive side, Finn and Muirhead-Steves (2002) found that EM reduced the sex offender's likelihood of return to prison and, for those that returned, the time period out of prison was much longer than those not on EM. None of the offenders in their sample were returned to prison while on

EM and 75% of offenders completed the EM without any violations. Combining a short stint of incarceration with electronic monitoring is an effective way to deal with offenders, rather than requiring longer sentences where they may learn from the more seasoned offenders (Gainey, Payne, & O'Toole, 2000). Further, they found that the longer an offender is on EM, the less likely they are to recidivate. When an offender who was on EM does recidivate, they are on parole longer prior to committing the crime than offenders who were never on EM (Gainey, et al., 2000). GPS monitoring has been a contributing factor to lower recidivism rates of those monitored according to nationwide data for high-risk sex offenders (Report on New Jersey's GPS Monitoring of Sex Offenders, 2007).

In a study of offenders released for pre-trial diversion, those on EM had a “modestly” higher failure to appear rate than those not on EM (Cadigan, 1991). However, those that were placed on EM were also higher risk offenders who have higher rates of failure to appear than those who were released on their own recognizance. “Electronic monitoring offers promise as an effective alternative to pre-trial detention in pre-trial release cases”, according to Cadigan, (1991: 29). Padgett, Bales, and Blomberg (2006) found that EM works for serious offenders in reducing rates of absconding, reoffending, and technical violations. RF was found to be just as effective as GPS in reducing the likelihood of absconding or reoffending, but RF was more effective than GPS in reducing the likelihood of revocation for a technical violation (Padgett, et al., 2006). An offender will be more likely to be caught for a technical violation if his every move is supervised versus an offender whose movements are not known.

In the pilot program for New Jersey, only one of the high-risk sex offender on GPS committed a new sex crime while monitored; 19 others were charged with non-sex offenses or technical violations (Report on New Jersey's GPS Monitoring of Sex Offenders, 2007). Bonta, Wallace-Capretta, and Rooney (2000) and Tennessee's pilot GPS study found, after one year, there was no statistically significant differences between the GPS monitored group and those not on GPS monitoring in the number of violations, new charges, or days prior to first violations. However, as noted in the pros section of GPS monitoring above, there were overwhelmingly positive reports from officers regarding the use of GPS as a tool for supervising sex offenders. The officers believed that most of the “cons” of the tool can be alleviated with additional staffing and technological and procedural improvements, which will come with more use of the tool (Tennessee Board of Probation and Parole, 2007). Further, Bonta, et al.'s (2000) study established positive aspects of GPS as a tool. It is a release option for moderate risk offenders, allows for intervention and tracking of offenders, may encourage compliance with treatment requirements, and the threat of returning to prison may provide a push for compliance with probation or parole terms.

\*Important note: Numerous studies reviewed noted that the use of GPS should in no way be used alone as a way of supervising sex offenders. Officers are still needed to complete the required task of interpreting the data, making visits to the offenders' homes,



workplaces, and frequently visited areas to be most effective (Cooprider & Kerby, 1990; Jannetta, 2006; Tennessee Board of Probation and Parole, 2007).

**Fiscal impact:**

The average cost of a passive system is \$5 per day per offender, including equipment, training, tracking, and correlating data for various criminal justice agencies (The Sex Offender Supervision and Community Notification Study Committee, 2005), and just over \$12 per day per offender on active monitoring (Jannetta, 2006; Electronic Monitoring of Sex Offenders, 2006; Minutes of the Third Meeting of the Courts, Corrections, and Justice Committee, 2007; Tennessee Board of Probation and Parole, 2007).

**Who Should Be Placed on GPS Supervision?:**

Prentky, Lee, Knight, and Cerce (1997) found, “When offenders are returned to the community, reintegration under supervision will provide a far more effective safety net than returning offenders to the community with no supervision” (p. 656). Tennessee’s pilot project found that offenders between ages 30 to 40 were the most likely ten-year age group to receive new charges, offenders under age 40 are more likely than those over 40 to commit new offenses, and offenders with less than a high school education were more likely to commit new offenses than those with a high school education or higher (Tennessee Board of Probation and Parole, 2007). High risk sex offenders, such as those with multiple victims, violent offenses, male pedophilia, drug or alcohol use associated with their offense, positive plethysmograph exclusively to children (Jannetta, 2006), higher impulsivity, offense planning, and fixation (Prentky, et al., 1997) should be monitored due to their high level of recidivism. These offenders have estimated recidivism rates of 50-80%.

Based on the results of previous studies offenders who are determined to be low-risk should not be placed on EM for extended periods, or at all. With the cost of GPS tracking and the amount of time devoted to supervising offenders on GPS taken into consideration, only high-risk offenders should be considered for placement on GPS tracking. Additionally, GPS officers recommended that those offenders who have completed GPS supervision without incident should be removed from GPS and placed on a lower level of supervision (Tennessee Board of Probation and Parole, 2007). This method frees up the unit for another offender to use, delineates a goal for offenders to work towards, and builds trust between the formerly tracked offenders and the criminal justice system.

**States that Currently Have Legislation for Parole GPS Monitoring:**

Forty states currently use GPS tracking for sex offenders on parole or probation.

Other States use of GPS Offender Monitoring					
State	GPS Project	Offenders on GPS	Average GPS Caseload	Alert Processing	GPS Vendor
Alabama	No	N/A	N/A	N/A	N/A
Alaska	No	N/A	N/A	N/A	N/A
Arizona	Yes	15	Not reported	Central Monitoring Center	Pro Tech
Arkansas	No	N/A	N/A	N/A	N/A
California	Yes	1100	Not reported	Not reported	STOP, LLC
Colorado	Yes	200	Not reported	Not reported	Not reported
Connecticut	Yes	100+	23	Sent directly to officers (text message/email)	Pro Tech
Delaware	No	N/A	N/A	N/A	N/A
Florida	Yes	1100	Not reported	Sent directly to officers (text message/email)	iSECUREtrac & Pro Tech
Georgia	Yes	170	Not reported	Not reported	Pro Tech
Hawaii	No	N/A	N/A	N/A	N/A
Idaho	Yes	30	Not reported	Not reported	Pro Tech & Secure Alert
Illinois	Yes	200	5-Mar	Central Monitoring Center	BI, Inc.
Indiana	Yes	Not reported	Not reported	Not reported	E.I.
Iowa	Yes	454	Not reported	Not reported	Pro Tech & G4S
Kansas	Yes	340-355	25-30	Sent directly to officers (text message/email)	Rocky Mountain Offender Management System
Kentucky	No	N/A	N/A	N/A	N/A
Louisiana	Yes	100	Not reported	Not reported	G4S
Maine	Yes	3	Not reported	Not reported	Pro Tech
Maryland	Yes	Not reported	Not reported	Central Monitoring Center	Not reported
Massachusetts	Yes	250	Not reported	Central Monitoring Center	Sentinel Services
Michigan	Yes	Not reported	Not reported	Not reported	Pro Tech
Minnesota	No	N/A	N/A	N/A	N/A
Mississippi	No	N/A	N/A	N/A	N/A
Missouri	Yes	20	7-May	Central Monitoring Center	G4S
Montana	Yes	Not reported	Not reported	Not reported	Pro Tech
Nebraska	Yes	20	Not reported	Sent directly to officers (text message/email)	iSECUREtrac
Nevada	No	N/A	N/A	N/A	N/A

New Hampshire	Yes	3	Not reported	Not reported	Sentinel Services
New Jersey	Yes	142	Not reported	Not reported	BI, Inc. & iSECUREtrac
New Mexico	Yes	250-300	5-10	Sent directly to officers (text message/email)	Pro Tech
New York	Yes	Not reported	Not reported	Not reported	Varies, no universal vendor
North Carolina	Yes	50	Not reported	Sent directly to officers (text message/email)	Pro Tech
North Dakota	Yes	20	Not reported	Not reported	Sentinel Services
Ohio	Yes	25	Not reported	Sent directly to officers (text message/email)	Varies, no universal vendor
Oklahoma	No response				
Oregon	Yes	Not reported	Not reported	Not reported	Varies, no universal vendor
Pennsylvania	Yes	40	Not reported	Not reported	Pro Tech
Rhode Island	No	N/A	N/A	N/A	N/A
South Carolina	Yes	30	1-2	Sent directly to officers (text message/email)	iSECUREtrac, B.I. Inc., Secure Alert
South Dakota	Yes	3	Not reported	Not reported	iSECUREtrac
Tennessee	Yes	375	20	Central Monitoring Center	iSECUREtrac
Texas	Yes	Not reported	Not reported	Central Monitoring Center	Pro Tech & G4S
Utah	Yes	25	Not reported	Not reported	Secure Alert
Vermont	No	N/A	N/A	N/A	N/A
Virginia	Yes	50	Not reported	Not reported	iSECUREtrac
Washington	Yes	10	Not reported	Not reported	Pro Tech
West Virginia	No	N/A	N/A	N/A	N/A
Wisconsin	No	N/A	N/A	N/A	N/A
Wyoming	No	N/A	N/A	N/A	N/A

The proceeding table was taken from Tennessee's GPS project evaluation and the following information was added or updated.

\*Oklahoma has a GPS project for habitual or aggravated sex offenders.

\*Wisconsin has a GPS project for habitual or aggravated sex offenders.

\*Minnesota has a contract with Midwest Monitoring & surveillance, Inc., for GPS monitoring equipment.

\*Iowa uses a central monitoring center.

APPENDIX C

GLOSSARY OF TERMS

## GLOSSARY OF TERMS USED IN THE MANAGEMENT AND TREATMENT OF SEXUAL OFFENDERS <sup>1</sup>

**Actuarial Risk Assessment:** A risk assessment based upon risk factors which have been researched and demonstrated to be statistically significant in the prediction of re-offense or dangerousness.

**Adjudication:** The process of rendering a judicial decision as to whether the facts alleged in a petition or other pleading are true; an adjudicatory hearing is that court proceeding in which it is determined whether the allegations of the petition are supported by legally-admissible evidence.

**Adolescent/Juvenile Sexual Abuser:** A person, legally or legislatively defined by the criminal or juvenile code of each state, with a history of sexually abusing other persons.

**Aftercare:** The portion of treatment that occurs after formal termination or graduation from the primary treatment program. Aftercare is provided either by the primary treatment provider or by community resources that are overseen and/or contracted by the primary treatment provider.

**Aftercare Plan:** The plan created by the primary treatment staff, family, other support systems, and the sex offender which includes the development of daily living skills, a focus on community reintegration while residing in a less structured/restrictive environment, a relapse prevention component, an emphasis on healthy living and competency building, and an identified system of positive support.

**Aggravating Circumstances:** Conditions that intensify the seriousness of the sex offense. Conditions may include age and gender of the victim, reduced physical and/or mental capacity of the victim, the level of cruelty used to perpetrate the offense, the presence of a weapon during the commission of the offense, denial of responsibility, multiple victims, degree of planning before the offense, history of related conduct on the part of the offender, and/or the use of a position of status or trust to perpetrate the offense.

**Assessment:** See Phases of Assessment.

**Civil Commitment:** The confinement and treatment of sex offenders who are especially likely to reoffend in sexually violent ways following the completion of their prison sentence. Commitment is court ordered and indeterminate.

**Clinical Polygraph:** A diagnostic instrument and procedure designed to assist in the treatment and supervision of sex offenders by detecting deception or verifying truth of statements by persons under supervision or treatment. The polygraph can assess reports relating to behavior. The three types of polygraph examinations that are typically administered to sex offenders are:


- **Sexual History Disclosure Test:** Refers to verification of completeness of the offender's disclosure of his/her entire sexual history, generally through the completion of a comprehensive sexual history questionnaire.
- **Instant Offense Disclosure Test:** Refers to testing the accuracy of the offender's report of his/her behavior in a particular sex offense, usually the most recent offense related to his/her being criminally charged.
- **Maintenance/Monitoring Test:** Refers to testing the verification of the offender's report of compliance with supervision rules and restrictions.

**Cognitive Distortion (CD):** A thinking error or irrational thought that sex offenders use to justify their behavior or to allow themselves to experience abusive emotions without attempting to change them. Cognitive distortions are ways sex offenders go about making excuses for justifying and minimizing their sexually abusive behavior. In essence, these are self-generated excuses for taking part in one's relapse patterns. These thoughts distort reality.

**Collaboration:** A mutually beneficial and well-defined relationship entered into by two or more

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<sup>1</sup> Glossary from CSOM Full Report, July 2007



organizations to achieve common goals. This type of relationship developed between supervising officers, treatment providers, polygraph examiners, victim advocates, prosecution and the defense bar has been credited with the success of effective sex offender management. This type of relationship includes a commitment to:

- Mutual relationships and goals;
- A jointly developed structure and shared responsibility;
- Mutual authority and accountability; and
- Sharing of resources and rewards.

**Collateral Contacts:** The sharing and use of information regarding a sex offender among law enforcement, probation/parole officers, treatment providers, employers, family members, and friends of the offender to enhance the effectiveness and quality of community supervision.

**Community Notification Laws:** Laws which allow or mandate that law enforcement, criminal justice, or corrections agencies give citizens access to relevant information about certain convicted sex offenders living in their communities (see Megan's Law).

**Community Supervision:** Day to day casework by a supervision officer that centers around the officer's monitoring of the offender's compliance to conditions of supervision, as well as the offender's relationship and/or status with his/her family, employers, friends and treatment provider. From these sources, the officer obtains information about the sex offender's compliance with conditions of community supervision, participation in treatment and risk of reoffense, and assists the offender in behavior modification and restoration to the victim and community. Types of community supervision include:

- *Bond supervision (also called "Pre-Trial Supervision"):* Supervision of an accused person who has been taken into custody and is allowed to be free with conditions of release before and during formal trial proceedings.
- *Parole supervision:* The monitoring of parolees' compliance with the conditions of his/her parole.
- *Probation supervision:* The monitoring of the probationers compliance with the conditions of probation (community supervision) and providing of services to offenders to promote law abiding behavior.

General goals of community supervision include:

- Protection of the community and enhancement of public safety through supervision of offenders and enforcement of the conditions of community supervision;
- Provision of opportunities to offenders which can assist them in becoming and remaining law-abiding citizens; and
- Provision of accurate and relevant information to the courts to improve the ability to arrive at rational sentencing decisions.

**Conditions of Community Supervision:** Requirements prescribed by the court as part of the sentence to assist the offender to lead a law-abiding life. Failure to observe these rules may lead to a revocation of community supervision, or graduated sanctions by the court. Examples of special conditions of community supervision for sex offenders are noted below:

- Enter, actively participate, and successfully complete a court recognized sex offender treatment program as directed by your supervising officer, within 30 days of the date of this order;
- No contact with the victim (or victim's family) without written permission from your supervising officer;
- Pay for victim counseling costs as directed by the supervising officer;
- Do not possess any sexually explicit materials.

**Contact:** As a special condition of supervision or as a treatment rule, a sex offender is typically prohibited from contact with his/her victim or potential victims. Contact has several meanings noted below:

- Actual physical touching;



- Association or relationship: taking any action which furthers a relationship with a minor, such as writing letters, sending messages, buying presents, etc.; or
- Communication in any form is contact (including contact through a third party). This includes verbal communication, such as talking, and/or written communication such as letters or electronic mail. This also includes non-verbal communication, such as body language (waving, gesturing) and facial expressions, such as winking.

**Contact with Prior Victims or Perpetrators:** This includes written, verbal or physical interaction, and third party contact with any person whom a sex offender sexually abused or who committed a sexual offense against the sex offender.

**Containment Approach:** A model approach for the management of adult sex offenders (English, et al., 1996a). This is conceptualized as having five parts:

1. A philosophy that values public safety, victim protection, and reparation for victims as the paramount objectives of sex offender management;
2. Implementation strategies that rely on agency coordination, multi-disciplinary partnerships, and job specialization;
3. A containment approach that seeks to hold sex offenders accountable through the combined use of both the offenders' internal controls and external criminal justice control measures, and the use of the polygraph to monitor internal controls and compliance with external controls;
4. Development and implementation of informed public policies to create and support consistent practices; and
5. Quality control mechanisms, including program monitoring and evaluation, that ensure prescribed policies and practices are delivered as planned.

**Conviction:** The judgment of a court, based on the verdict of guilty, the verdict of a judicial officer, or the guilty plea of the defendant that the defendant is guilty of the offense.


**Denial:** A psychological defense mechanism in which the offender may act shocked or indignant over the allegations of sexual abuse. Seven types of denial have been identified:

1. *Denial of facts:* The offender may claim that the victim is lying or remembering incorrectly;
2. *Denial of awareness:* The offender may claim that s/he experienced a blackout caused by alcohol or drugs and cannot remember;
3. *Denial of impact:* Refers to the minimization of harm to the victim;
4. *Denial of responsibility:* The offender may blame the victim or a medical condition in order to reduce or avoid accepting responsibility;
5. *Denial of grooming:* The offender may claim that he did not plan for the offense to occur;
6. *Denial of sexual intent:* The offender may claim that s/he was attempting to educate the victim about his/her body, or that the victim bumped into the offender. In this type of denial, the offender tries to make the offense appear non-sexual; and
7. *Denial of denial:* The offender appears to be disgusted by what has occurred in hopes others would believe s/he was not capable of committing such a crime.

**Disposition:** A final settlement of criminal charges.

**Electronic Monitoring:** An automated method of determining compliance with community supervision restrictions through the use of electronic devices. There are three main types of electronic monitoring utilizing different technologies:

1. *Continuous Signaling Technology:* The offender wears a transmitting device that emits a continuous coded radio signal. A receiver-dialer is located in the offender's home and is attached to the telephone. The receiver detects the transmitter's signals and conveys a message via telephone report to the central computer when it either stops receiving the message or the signal resumes again.
2. *Programmed Contact Technology:* This form of monitoring uses a computer to generate either random or scheduled telephone calls to offenders during the hours the offender should be at his/her residence.



The offender must answer the phone, and verify his/her presence at home by either having the offender transmit a special beeping code from a special watch attached to the offender's wrist, or through the use of voice or visual verification technology.

3. **Global Positioning Technology (GPS):** This technology is presently under development and is being used on a limited basis. The technology can monitor an offender's whereabouts at any time and place. A computer is programmed with the places offenders should be at specific times and any areas that are off limits to the offender (e.g., playgrounds and parks). The offender wears a transmitting device that sends signals through a satellite to a computer, indicating the offender's whereabouts.

**Empathy:** A capacity for participating in the feelings and ideas of another.

**Evaluation:** The application of criteria and the forming of judgments; an examination of psychological, behavioral, and/or social information and documentation produced by an assessment (sex offender assessments precede sex offender evaluations). The purpose of an evaluation is to formulate an opinion regarding a sex offender's amenability to treatment, risk/dangerousness, and other factors in order to facilitate case management.

**Family Reunification:** This is the joining again of the family unit as part of a sex offender's treatment plan. It is a step-by-step process with achievable goals and objectives.

**Graduation or Discharge Readiness:** Documented evidence of a sex offender's accomplishment of treatment goals outlined in an individual treatment plan. Sex offender progress that leads to graduation or discharge readiness may include, but is not limited to:

- A decrease in the offender's risk/dangerousness to the community;
- Aftercare planning;
- A community reintegration plan;
- The ability to recognize and alter thinking errors and to intervene in the assault cycle;
- The ability to develop and use relapse prevention plans;
- Knowledge of healthy sexuality and safe sex practices;
- Improved social skills;
- Vocational and recreational planning; and
- A commitment to attend aftercare support groups.

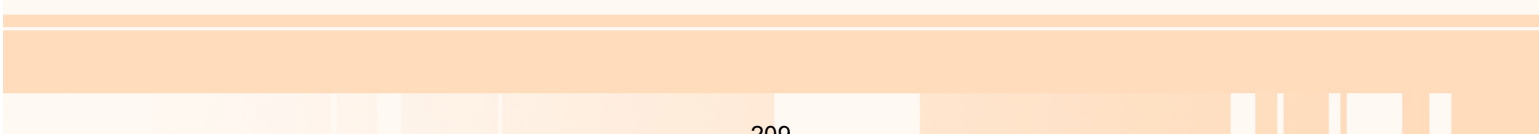
**Grooming:** The process of manipulation often utilized by child molesters, intended to reduce a victim's or potential victim's resistance to sexual abuse. Typical grooming activities include gaining the child victim's trust or gradually escalating boundary violations of the child's body in order to desensitize the victim to further abuse.

**High Risk Factors (HRF):** A set of internal motivations or external situations/events that threaten a sex offender's sense of self-control and increase the risk of having a lapse or relapse. High risk factors usually follow seemingly unimportant decisions (SUDs).

**Incest:** Sexual relations between close relatives, such as father and daughter, mother and son, sister and brother.

**Index Offense:** The most recent offense known to authorities.

**Individual Treatment Plan:** A document outlining the essential treatment issues which must be addressed by the sex offender. Treatment plans often consist of core problem areas to be addressed in treatment such as cognitive restructuring, emotional development, social and interpersonal skills enhancement, lowering of deviant sexual arousal, anger management, empathy development, understanding of the sexual abuse cycle, and the formulation and implementation of a relapse prevention plan. These plans include the:

- Problem to be addressed;
  - Proposed treatment;
  - Treatment goal;
- 

- Responsible staff; and
- Time frame to meet goals.

**Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act:**

Enacted in 1994, this federal mandate requires states to establish stringent registration programs for sex offenders—including lifelong registration for offenders classified as “sexual predators” by September 1997 (see Sex Offender Registration).

**Justification:** A psychological defense mechanism by an offender in which s/he attempts to use reasoning to explain offending behavior.

**Lapse:** An emotion, fantasy, thought, or behavior that is part of a sex offender’s cycle and relapse pattern. Lapses are not sex offenses. They are precursors or risk factors for sex offenses. Lapses are not failures and are often considered as valuable learning experiences.

**Less Restrictive:** The result of changing the environment in which a sex offender lives by decreasing security offered by the physical structure (e.g., increased number of roommates), reducing the level/intensity of supervision, allowing greater access to unsupervised leisure time activities, and permitting community or family visits. A less restrictive environment is usually the result of significant treatment progress or compliance with the treatment program and environment.

**Level of Risk:** The degree of dangerousness a sex offender is believed to pose to potential victims or the community at large. The likelihood or potential for a sex offender to re-offend is determined by a professional who is trained or qualified to assess sex offender risk.

**Level of Service Inventory-Revised (LSI-R):** A risk assessment tool designed to assess re-offense risk and treatment needs among the general criminal population. This tool utilizes a 54 item scale scored “yes” or “no” or a “0-3” rating by clinical staff or case managers (Andrews and Bonta, 1995). This instrument has not been validated for a sex offender population.

**Megan’s Law:** The first amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Act. This was passed in October 1996 and requires states to allow public access to information about sex offenders in the community. This federal mandate was named after Megan Kanka, a seven-year-old girl who was raped and murdered by a twice-convicted child molester in her New Jersey neighborhood (see Community Notification).

**Minimization:** An attempt by the offender to downplay the extent of abuse.

**Multi-Cultural Issues:** Any difference that exists between the language, customs, beliefs, and values among various racial, ethnic, or religious groups.

**Multi-Disciplinary Team:** A variety of professionals (e.g., psychologists, psychiatrists, clinical social workers, educators, medical personnel, recreational staff, paraprofessionals, criminal justice personnel, volunteers, and victim advocates) working together to evaluate, monitor, and treat sex offenders.

**Nolo Contendere:** A plea in criminal prosecution that, without admitting guilt, leads to conviction but does not prevent denying the truth of the charges in a collateral proceeding. A defendant may plead nolo contendere only with the consent of the court after the judge has obtained a factual basis. A plea of nolo contendere cannot be considered an admission of guilt in civil court proceedings.

**Outcome Data:** Data that demonstrates clear, relevant, and undisputed information regarding the effect of supervision and/or treatment on sex offender recidivism rates.

**Paraphilia:** A psychosexual disorder. Recurrent, intense, sexually arousing fantasies, urges, and/or thoughts that usually involve humans, but may also include non-human objects. Suffering of one’s self or

partner, children, or non-consenting persons is common. A deviation in normal sexual interests and behavior that may include:

- *Bestiality (Zoophilia)*: Sexual interest or arousal to animals.
- *Coprophilia*: Sexual interest or arousal to feces.
- *Exhibitionism*: Exposing one's genitalia to others for purposes of sexual arousal.
- *Frotteurism*: Touching or rubbing against a non-consenting person.
- *Fetishism*: Use of nonliving objects (e.g., shoes, undergarments, etc.) for sexual arousal that often involves masturbation.
- *Hebophilia*: Sexual interest in, or arousal to, teens/post-pubescent children.
- *Klismophilia*: Sexual arousal from enemas.
- *Necrophilia*: Sexual interest in, or arousal to, corpses.
- *Pedophilia*: The Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) criteria for pedophilia are as follows:
  1. Over a period of at least 6 months, recurrent, intense, sexually arousing fantasies, sexual urges, or behaviors involving sexual activity with a pre-pubescent child or children (generally age 13 years or younger);
  2. The fantasies, sexual urges, or behaviors cause clinically significant distress or impairment in social, occupational, or other important areas of functioning; and
  3. The person is at least 16 years old and at least 5 years older than the child or children in the first criterion (this does not include an individual in late adolescence who is involved in an ongoing sexual relationship with a 12 or 13 year old).
- *Pederast*: Sexual interest in, or arousal to, adolescents.
- *Sexual Masochism*: Sexual arousal/excitement from being humiliated, beaten, bound, or made to suffer.
- *Sexual Sadism*: Sexual arousal/excitement from psychological or physical suffering of another.
- *Telephone Scatologia*: Engaging in uninvited, sexually explicit talk with another person via the telephone. This is often referred to as "obscene phone calling."
- *Transsexual*: A person who has undergone a surgical sexual/gender change.
- *Transvestic Fetishism*: The wearing of clothing articles and especially undergarments for persons of the opposite sex. This is often referred to as "cross dressing."
- *Voyeurism*: Observing unsuspecting individuals, usually strangers, who are naked, in the act of dressing or undressing, or engaging in sexual activities.

**Parole:** A method of prisoner release on the basis of individual response and progress within the correction institution, providing the necessary controls and guidance while serving the remainder of their sentences within the free community.

**Pedophile:** An individual who turns to prepubescent children for sexual gratification. (The DSM-IV criteria for pedophilia are noted under pedophilia.) There are several typologies of pedophiles, including:

- *Fixated Pedophile*: An individual who is sexually attracted to children and lacks psychosexual maturity.
- *Regressed Pedophile*: Most commonly describes a sex offender who has a primary adult sexual orientation but under stress engages in sexual activities with underage persons.

**Phallometry (Phallometric Assessment or Penile Plethysmography):** A device used to measure sexual arousal to both appropriate (age appropriate and consenting) and deviant sexual stimulus material. Stimuli can be either audio, visual, or a combination.

**Phases of Assessment:** An assessment is the process of collecting and analyzing information about an offender so that appropriate decisions can be made regarding sentencing, supervision, and treatment. An assessment does not and cannot determine guilt or innocence, and it cannot be used to determine whether an individual fits the "profile" of an offender who will commit future offenses. Assessments lay the groundwork for conducting an evaluation.

There are several phases and types of sex offender assessments. These include the following:

- *Investigative Assessment:* An investigative assessment is generally completed by a team that includes law enforcement personnel, a prosecuting attorney, and a child protective services staff member. The purpose of this assessment is to gather as much information as possible regarding the modus operandi of a sexual abuser and to corroborate evidence regarding the crime scene and how the abuse occurred.
- *Risk Assessment:* A risk assessment considers the nature, extent, and seriousness of an offender's sexually abusive behavior; the degree of threat the offender presents to the community or victim; and the general dangerousness of the offender in any particular setting. It determines specifically and in detail the appropriate setting, the intensity of intervention, and the level of supervision needed by a particular sex offender. A risk assessment is required prior to admission to any program for sex offenders, and is conducted on an ongoing basis after admission.
- *Treatment Planning Assessment:* The purpose of a treatment planning assessment is to identify specific problem areas, strengths and weaknesses, skills, knowledge, and the precedents and antecedents of the sexually abusive behavior. The assessment includes consideration of thinking, affect, behavior, organicity of behavioral and cognitive issues, psychiatric disorders, addictions, and family functioning.
- *Clinical Assessment:* A clinical assessment is necessary for treatment planning. It helps determine the problem areas that need to be addressed in treatment as well as the types and modalities of treatment most suitable to treat the sex offender.
- *Formal and Informal Assessments of Progress in Treatment:* Formal and informal assessments of progress in treatment are used to determine sex offender progress in treatment. They are typically done using pre-post testing of information learned, direct observation and evaluation of the skills the sex offender has acquired, and the extent of his/her behavioral change.
- *Graduation or Discharge Readiness Assessment:* A graduation or discharge readiness assessment is used to determine if a sex offender has successfully completed treatment. The sex offender's skills, knowledge, and abilities are evaluated based upon the treatment plan and other factors that were identified to determine the offender's progress.
- *Classification Assessment:* A classification assessment is conducted to determine the supervision classification status of a probationer or parolee who is a sex offender.
- *Outcome Evaluations:* Outcome evaluations are conducted after discharge from a program, typically by tracking all sex offenders to determine rates of recidivism/re-offense.

**Plethysmograph:** A device that measures erectile responses in males to both appropriate and inappropriate stimulus material (see Phallometry).

**Pornography:** The presentation of sexually arousing material in literature, art, motion pictures, or other means of communication or expression.

**Positive Treatment Outcome:** A treatment outcome that includes a significantly lower risk of the sex offender engaging in sexually abusive behavior as a result of attaining/developing a higher level of internal control. Positive treatment outcomes include a lack of recidivism; a dramatic decrease in behaviors, thoughts and attitudes associated with sexual offending; and other observable changes that indicate a significantly lower risk of re-offending.

**Presentence Investigation Report:** A court ordered report prepared by a supervision officer. This report includes information about an offender's index offense, criminal record, family and personal history, employment and financial history, substance abuse history, and prior periods of community supervision or incarceration. At the conclusion of the report, the officer assesses the information and often makes a dispositional recommendation to the court.

**Probation:** A court ordered disposition through which an adjudicated offender is placed under the control, supervision, and care of a probation field staff member in lieu of imprisonment, so long as the probationer (offender) meets certain standards of conduct.

**Progress in Treatment:** Observable and measurable changes in behavior, thoughts, and attitudes which support treatment goals and healthy, non-abusive sexuality.

**Psychopath:** A disorder characterized by many of the following: glibness and superficial charm; grandiosity; excessive need for stimulation/proneness for boredom; pathological lying; cunning and manipulative; lack of remorse or guilt; shallow affect; parasitic lifestyle; poor behavior controls; promiscuous sexual behavior and many short-term relationships; early behavioral problems; lack of realistic, long-term goals; impulsivity; irresponsibility; history of juvenile delinquency; likelihood of revocation on conditional release; and criminal versatility.

Hervey Cleckley (1982) developed the following three important points about psychopaths:

- Psychopaths have all of the outward appearances of normality—they do not hallucinate or have delusions and do not appear particularly encumbered by debilitating anxiety or guilt;
- Psychopaths appear unresponsive to social control; and
- Criminal behavior is not an essential characteristic.

**Psychopharmacology:** The use of prescribed medications to alter behavior, affect, and/or the cognitive process.

**Psychosexual Evaluation:** A comprehensive evaluation of an alleged or convicted sex offender to determine the risk of recidivism, dangerousness, and necessary treatment. A psychosexual evaluation usually includes psychological testing and detailed history taking with a focus on criminal, sexual, and family history. The evaluation may also include a phallometric assessment.

**Rape:** Forceful sexual penetration of a child or an adult (vaginal, oral, or anal) with a penis, finger, or object. Three types of rapists have been described:

1. *Anger Rapist:* A sex offender whose rape behavior is motivated primarily by a desire to release anger and hostility on his/her victims. Offender's mood is one of anger and depression.
2. *Power Rapist:* A sex offender whose primary motivation for raping others is to feel powerful and exercise control over victims. Offender's mood is one of anxiety.
3. *Ritualistic-Sadistic Rapist:* A sexual offender whose primary motivation for raping is the eroticized power or anger. If power is eroticized the victim is subjected to ritualistic acts, such as bondage. If anger is eroticized, the victim is subjected to torture and sexual abuse. Offender's mood is one of intense excitement and dissociation.

**Rapid Risk Assessment for Sex Offense Recidivism (RRASOR):** A risk assessment tool that assesses sexual re-offense risk among adult sex offenders at five and ten year follow-up periods. In this tool, four items are scored by clinical staff or case managers using a weighted scoring key (Hanson, 1997).

**Recidivism:** Commission of a crime after the individual has been criminally adjudicated for a previous crime; reoffense. In the broadest context, recidivism refers to the multiple occurrence of any of the following key events in the overall criminal justice process: commission of a crime whether or not followed by arrest, charge, conviction, sentencing, or incarceration.


**Relapse Prevention:** A multidimensional model incorporating cognitive and behavioral techniques to treat sexually abusive/aggressive behavior. See Appendix I for listings of relapse prevention specific terminology.

**Release of Information:** A signed document for purposes of sharing information between and among individuals involved in managing sex offenders (e.g., two-way information release between treatment providers and legal professionals includes the sharing of sex offender legal and treatment records and other information necessary for effective treatment, monitoring and supervision).

**Restitution:** A requirement by the court as a condition of community supervision that the offender replaces the loss caused by his/her offense through payment of damages in some form.

**Reunification:** A gradual and well-supervised procedure in which a sex offender (generally an incest offender) is allowed to re-integrate back into the home where children are present. This takes place after the clarification process, through a major part of treatment, and provides a detailed plan for relapse





prevention.

**Risk Controls:** External conditions placed on a sex offender to inhibit re-offense. Conditions may include levels of supervision, surveillance, custody, or security. In a correctional facility, these conditions generally are security and custody related. In a community setting, conditions are a part of supervision and are developed by the individual charged with overseeing the sex offender's placement in the community.

**Risk Factors:** A set of internal stimuli or external circumstances that threaten a sex offender's self-control and thus increases the risk of lapse or relapse. Characteristics that have been found through scientific study to be associated with increased likelihood of recidivism for known sex offenders. Risk factors are typically identified through risk assessment instruments. An example of a sex offender risk factor is a history of molesting boys.

**Risk Level:** The determination by evaluation of a sex offender's likelihood of reoffense, and if the offender reoffends, the extent to which the offense is likely to be traumatic to potential victims. Based on these determinations, the offender is assigned a risk level consistent with his/her relative threat to others. Sex offenders who exhibit fewer offenses, less violence, less denial, a willingness to engage in treatment, no/few collateral issues (e.g., substance abuse, cognitive deficits, learning disabilities, neurological deficits, and use of weapons) are considered lower risk than those whose profile reflects more offenses, greater violence, and so on. Risk level is changeable, depending on behaviors exhibited within a treatment program. Disclosures of additional, previously unknown offenses or behaviors may also alter the offender's assessed level of risk.

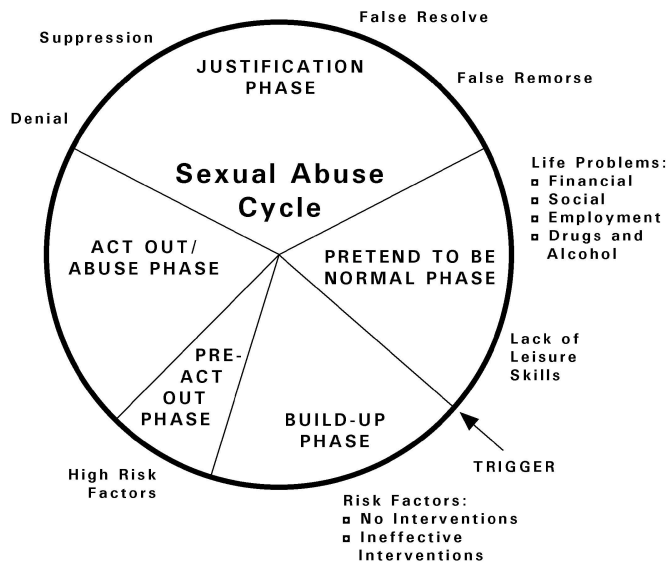
**Risk Management:** A term used to describe services provided by corrections personnel, treatment providers, community members, and others to manage risk presented by sex offenders. Risk management approaches include supervision and surveillance of sex offenders in a community setting (risk control) and require sex offenders to participate in rehabilitative activities (risk reduction).

**Risk Reduction:** Activities designed to address the risk factors contributing to the sex offender's sexually deviant behaviors. These activities are rehabilitative in nature and provide the sex offender with the necessary knowledge, skills, and attitudes to reduce his/her likelihood of re-offense.

**Sex Offender:** The term most commonly used to define an individual who has been charged and convicted of illegal sexual behavior.

**Sex Offender Registration:** Sex offender registration laws require offenders to provide their addresses, and other identifying information, to a state agency or law enforcement agency for tracking purposes with the intent of increasing community protection. In some states, only adult sex offenders are required to register. In others, both adult and juvenile sexual offenders must register (see Jacob Wetterling Act).

**Sexual Abuse Cycle:** The pattern of specific thoughts, feelings, and behaviors which often lead up to and immediately follow the acting out of sexual deviance. This is also referred to as "offense cycle," or "cycle of offending."



**Sexual Abuser:** The term most commonly used to describe persons who engage in sexual behavior that is considered to be illegal (this term refers to individuals who may have been charged with a sex crime but have not been convicted).

**Sexual Abuse Specific:** A term used to imply that aspects of treatment, assessment, and programming are targeting sexually abusive behaviors and not generic problems. Sexual abuse specific treatment often includes limited confidentiality, involuntary client participation, and a dual responsibility for the therapist: meeting the offender's needs while protecting society).

**Sexual Assault:** Forced or manipulated unwanted sexual contact between two or more persons.

**Sexual Contact:** Physical or visual contact involving the genitals, language, or behaviors of a seductive or sexually provocative nature.

**Sexual Deviancy:** Sexual thoughts or behaviors that are considered abnormal, atypical or unusual. These can include non-criminal sexual thoughts and activities such as transvestitism (cross-dressing) or criminal behaviors, such as pedophilia.

**Sexual Predator:** A highly dangerous sex offender who suffers from a mental abnormality or personality disorder that makes him/her likely to engage in a predatory sexually violent offense.

**Successful Completion:** Indicates a sex offender can graduate from a program with a discharge statement stating that s/he has successfully demonstrated all skills and abilities required for safe release from the program.

**Termination of Community Supervision:** Community supervision usually ends in one of three ways:

- *Early Termination:* For good behavior and compliance with the conditions of probation, the court may reduce the period of supervision and terminate community supervision prior to the conclusion of the original term.
- *Expiration of Sentence/Term:* An offender completes the full probated or incarcerated sentence.
- *Revocation:* If the offender violates the terms of the community supervision, the court, following a revocation hearing, may suspend community supervision and sentence the offender to a term in jail or prison.

**Treatment Contracts:** A document explained to and signed by a sex offender, his/her therapist, his/her probation/parole officer, and others that include:




- Program goals;
- Program progress expectations;
- Understanding and acceptance of program and facility (if applicable) rules;
- Agreement by the sex offender to take full responsibility for his/her offenses within a specific time frame;
- Acknowledgment of the need for future stipulations as more risks and needs are identified (e.g., triggers, patterns, etc.) and that privileges or restrictions may be adjusted as progress or risk factors change;
- Parental/family requirements to participate in sexual abuse specific family treatment and be financially responsible when necessary;
- Acknowledgment of consequences for breaking the treatment contract; and
- Incentives.

**Treatment Models:** Various treatment models are employed with sex offenders.

- *Bio-Medical Treatment Model:* The primary emphasis is on the medical model, and disease process, with a major focus on treatment with medication.
- *Central Treatment Model:* A multi-disciplinary approach to sex offender and sexual abuser treatment that includes all program components (e.g., clinical, residential, educational, etc.).
- *Cognitive/Behavioral Treatment Model:* A comprehensive, structured treatment approach based on sexual learning theory using cognitive restructuring methods and behavioral techniques. Behavioral methods are primarily directed at reducing arousal and increasing pro-social skills. The cognitive behavioral approach employs peer groups and educational classes, and uses a variety of counseling theories.
- *Family Systems Treatment Model:* The primary emphasis is on family therapy and the inclusion of family members in the treatment process. The approach employs a variety of counseling theories.
- *Psychoanalytic Treatment Model:* The primary emphasis is on client understanding of the psychodynamics of sexual offending, usually through individual treatment sessions using psychoanalytic principles.
- *Psycho-Socio Educational Treatment Model:* A structured program utilizing peer groups, educational classes, and social skills development. Although the approach does not use behavioral methods, it employs a variety of counseling theories.
- *Psychotherapeutic (Sexual Trauma) Treatment Model:* The primary emphasis is on individual and/or group therapy sessions addressing the sex offender's own history as a sexual abuse victim and the relationship of this abuse to the subsequent perpetration of others. The approach draws from a variety of counseling theories.
- *Relapse Prevention (RP) Treatment Model:* A three dimensional, multimodal approach specifically designed to help sex offenders maintain behavioral changes by anticipating and coping with the problem of relapse. Relapse Prevention: 1) teaches clients internal self-management skills; 2) plans for an external supervisory component; and 3) provides a framework within which a variety of behavioral, cognitive, educational, and skill training approaches are prescribed in order to teach the sex offender how to recognize and interrupt the chain of events leading to relapse. The focus of both assessment and treatment procedures is on the specification and modification of the steps in this chain, from broad lifestyle factors and cognitive distortions to more circumscribed skill deficits and deviant sexual arousal patterns. The focus is on the relapse process itself.
- *Sexual Addiction Treatment Model:* A structured program using peer groups and an addiction model. This approach often includes 12-Step and sexual addiction groups.

**Treatment Planning/Process Meeting:** A face-to-face gathering of a multi-disciplinary team to discuss the results of initial evaluations and outline the individual treatment plan for a sex offender. The meeting generally focuses on specific developmental, vocational, educational and treatment needs; and housing and recreational placement.

**Treatment Program or Facility:** Any single program in which sex offenders routinely are grouped together for services. It may include residential, educational, and day treatment programs; or any



similar service. A treatment program or facility is differentiated from an agency which may administer a number of different treatment facilities.

**Treatment Progress:** Gauges the offender's success in achieving the specific goals set out in the individual treatment plan. This includes, but is not limited to: demonstrating the ability to learn and use skills specific to controlling abusive behavior; identifying and confronting distorted thinking; understanding the assault cycle; accepting responsibility for abuse; and dealing with past trauma and/or concomitant psychological issues, including substance abuse/addiction.

**Triggers:** An external event that begins the abuse or acting out cycle (i.e., seeing a young child, watching people argue, etc.).

**Victim Impact Statement:** A statement taken while interviewing the victim during the course of the presentence investigation report, or at the time of pre-release. Its purpose is to discuss the impact of the sexual offense on the victim.